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Illinois *Register*

Rules of Governmental Agencies

Volume 23, Issue 43 — October 22, 1999

Pages 12,834 – 13,141

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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 16, 1999 - Issue 16: Through	March 31, 1999
July 16, 1999 - Issue 29: Through	June 30, 1999
October 15, 1999 - Issue 42: Through	September 30, 1999
January 21, 2000 - Issue 3: Through	December 31, 1999 (Annual)

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1999

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 21, 1998	January 4, 1999 *	Issue 28	June 28	July 9
Issue 2	December 28	January 8	Issue 29	July 6 ***	July 16
Issue 3	January 4, 1999	January 15	Issue 30	July 12	July 23
Issue 4	January 11	January 22	Issue 31	July 19	July 30
Issue 5	January 19	January 29	Issue 32	July 26	August 6
Issue 6	January 25	February 5	Issue 33	August 2	August 13
Issue 7	February 1	February 16	Issue 34	August 9	August 20
Issue 8	February 8	February 19 **	Issue 35	August 16	August 27
Issue 9	February 16 ***	February 26	Issue 36	August 23	September 3
Issue 10	February 22	March 5	Issue 37	August 30	September 10
Issue 11	March 1	March 12	Issue 38	September 7 ***	September 17
Issue 12	March 8	March 19	Issue 39	September 13	September 24
Issue 13	March 15	March 26	Issue 40	September 20	October 1
Issue 14	March 22	April 2	Issue 41	September 27	October 8
Issue 15	March 29	April 9	Issue 42	October 4	October 15
Issue 16	April 5	April 16	Issue 44	October 12 ***	October 22
Issue 17	April 12	April 23	Issue 43	October 18	October 29
Issue 18	April 19	April 30	Issue 44	October 25	November 5
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Issue 20	May 3	May 14	Issue 46	November 8	November 19
Issue 21	May 10	May 21	Issue 47	November 15	November 29 *
Issue 22	May 17	May 28	Issue 48	November 22	December 3
Issue 23	May 24	June 4	Issue 49	November 29	December 10
Issue 24	June 1 ***	June 11	Issue 50	December 6	December 17
Issue 25	June 7	June 18	Issue 51	December 13	December 24
Issue 26	June 14	June 25	Issue 52	December 20	December 31
Issue 27	June 21	July 2	Issue 1	December 27	January 7, 2000

* Monday following a state holiday.

** Tuesday following a state holiday.

*** Since the state holiday is a Monday, the deadline is Noon on Tuesday.

AUDITOR GENERAL

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NOTICE OF PROPOSED AMENDMENT (S)

1) Heading of the Part: Code of Rules

2) Code Citation: 74 Ill. Adm. Code 440

3) Section Numbers: 440.410
440.420

Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by Section 1-30(b) of the Illinois Procurement Code [30 ILCS 500/-1-30(b)] and Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12]

5) A Complete Description of the Subjects and Issues Involved: Portions of 74 Ill. Adm. Code 440.410 and 440.420 dealing with procurement are being amended. A complete set of procurement rules, implementing changes made by the Illinois Procurement Code, will be adopted at 44 Ill. Adm. Code 500.

6) Will this rulemaking replace an emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Rebecca Patton
Office of the Auditor General
740 E. Ash St.
Springfield IL 62703
217/787-6698
TDD: 217/544-4646

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: All would be affected in circumstances where they do business or seek to do business with the Office of the Auditor General.

AUDITOR GENERAL

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 74: PUBLIC FINANCE
CHAPTER III: AUDITOR GENERAL

PART 440
CODE OF RULES

SUBPART A: STANDARDS OF CONSTRUCTION FOR RULES

Section	Introduction
440.10	General Provisions
440.20	Abbreviations

SUBPART B: DEFINITIONS

Section	Introduction
440.110	General Provisions
440.120	Abbreviations

SUBPART C: CLARIFICATIONS CONCERNING THE DEFINITION OF

FINANCIAL AUDIT OR COMPLIANCE AUDIT

Section	Introduction
440.210	Classification

SUBPART D: PUBLIC PETITIONS REQUESTING RULEMAKING ACTIONS

BY THE OFFICE OF THE AUDITOR GENERAL

Section	Introduction
440.310	General Provisions
440.320	Procedures

SUBPART E: CONTRACTUAL PERSONAL SERVICES

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440.410	General Provisions

SUBPART F: OATHS

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440.510	General Provisions

SUBPART G: SUBPOENAS

SUBPART H: DEPOSITIONS

AUDITOR GENERAL

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 74: PUBLIC FINANCE

CHAPTER III: AUDITOR GENERAL

PART 440

CODE OF RULES

SUBPART A: STANDARDS OF CONSTRUCTION FOR RULES

Section	Introduction
440.10	General Provisions
440.20	Abbreviations

SUBPART B: DEFINITIONS

Section	Introduction
440.110	General Provisions
440.120	Abbreviations

SUBPART C: CLARIFICATIONS CONCERNING THE DEFINITION OF

FINANCIAL AUDIT OR COMPLIANCE AUDIT

Section	Introduction
440.210	Classification
440.220	Classification

SUBPART D: PUBLIC PETITIONS REQUESTING RULEMAKING ACTIONS

BY THE OFFICE OF THE AUDITOR GENERAL

Section	Introduction
440.310	General Provisions
440.320	Procedures

SUBPART E: CONTRACTUAL PERSONAL SERVICES

Section	Introduction
440.410	General Provisions

SUBPART F: OATHS

Section	Introduction
440.510	General Provisions

SUBPART G: SUBPOENAS

SUBPART H: DEPOSITIONS

SUBPART I: FINANCIAL ADMINISTRATION OF THE STATE AUDIT ADVISORY BOARD

SUBPART B: CONTRACTUAL PERSONAL SERVICES

SUBPART 440.410 Introduction

a) SUBJECT. A rule for the appointment of Special Assistant Auditors and/or nonlicensed entities or individuals performing contractual personal services for the Office of the Auditor General.

b) SCOPE. This Subpart governs all contracts with individuals and

AUDITOR GENERAL

NOTICE OF PROPOSED AMENDMENT(S)

entities performing professional and artistic services for the Office of the Auditor General except:

- 1) Services by individuals covered-(Personnel-Relief)
- 2) whose services secured-through-competitive-bidding;
- 3) Contractual-personal-services-for-the-maintenance-of-equipment.

C) AUTHORITY. Section 2-12(c)(2), ISAA [30 ILCS 5/2-12(c)(2)].

D) INCORPORATIONS. The following materials are incorporated by reference and made a part of this rule:

- 1) Definitions of Construction for Rules (Subpart A of this Part).
- 2) Definitions (Subpart B of this Part).

e) EFFECTIVE DATE. This Subpart becomes effective on November 21, 1980.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 440.420 General provisions

a) GENERAL PROVISIONS.

1) Conflicts. No Contractor, Subcontractor or associated principal shall have any interest which would conflict in any manner with the performance of the services to be provided under a contract.

2) Contractual evidence. All services secured under this subpart shall be the subject of a written contract, which contract shall be duly approved.

3) Selection.--All--persons--other--than--specified--in--subsection--(b)--below--shall--be--employed--upon--the--recommendation--of--an--Executive Employee--who--shall--have--obtained--from--a--prospective--contractor--or--contractors--a--resumes--or--supporting--materials--regarding--qualifications--and--experience--responsible--to--proposals--or--other documentation--of--proposed--work--objectives--costs--and--credentials to--determine--the--capability--of--the--Contractor--to--perform--the--work contemplated--under--a--contract--.

4) Delegations of authority. Any delegation of authority by the Auditor General to sign, issue or effectuate, in the name of the Auditor General, Requests for Proposals or contracts to hire individuals or entities to assist in accomplishing the responsibilities or programs of the office shall be maintained in writing, signed and dated by the Auditor General, at the office's Springfield location. The form of the signature for any delegated authority shall be specified in the document effecting the delegation.

5) Documentation--Contract--fees--shall--be--maintained--by--the--Office of--the--Auditor--General--pursuant--to--74--Ill.--Adm.--Code--120--Subpart G--and--shall--contain--the--resumes--supporting--materials--regarding qualifications--and--experience--responses--to--proposals--or--other documentation--of--proposed--work--objectives--costs--and--credentials to--perform--work--designated--in--the--contract--upon--which--the selection--was--based--together--with--the--signature--of--the--Executive

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NOTICE OF PROPOSED AMENDMENT(S)

b) SPECIAL ASSISTANT AUDITORS. The services of special assistant auditors shall be procured pursuant to the requirements of the Auditor General's Standard Procurement Rules [44 Ill. Adm. Code 500].

General---Signature---Where---the---contract---contemplates---the---individuals---of---Specified---Assistant---Auditors---the---individuals granted---this---status---shall---be---set---out---as---required---by---the---contract---Employee---Audit---duties:

A) Prequalification---Firms---and---individuals---may---request---to---be placed---on---the---list---of---available---firms---for---the---conduct---of---firm---compliance---audits---by---submitting---a---prequalification---documents in---the---form---supplied---by---the---Office---of---the---Auditor---General---to---the---Comptroller---Audit---Director:

B) Selection---The---Comptroller---Audit---Director---shall---select---and---audit firms---or---individuals---to---conduct---prequalification---surveys---of---a State---agency---for---purposes---of---submitting---a---proposal---to conduct---an---audit---the---survey---shall---cover---those---areas specified---by---the---audit---director---Upon---receipt---of---a---proposal---or---proposal---satisfactory---to---the---Comptroller---Audit---Director---a---contract---to---perform---the---audit---of---the---part---thereof---shall---be tendered---by---the---Comptroller---Audit---Director---to---the---Auditor General---or---the---Auditor---General---is---designee---for---approval:

A) Performance-audit---duties---Request---for---proposal---for---proposal:

Request---for---proposal---prepared---under---the---supervision---of---the Performance---Audit---Director---unless---in---specific---circumstances---the requirement---is---waived---by---the---Auditor---General:

B) Such---duties---may---be---granted---in---cases---where---conditions---and restrictions---are---extenuating---imposed---which---render impracticable---the---requirement---of---a---Request---for---proposal; Such---conditions---include---but---are---not---limited---to:

i) time---restrictions---on---the---completion---of---the---report;

ii) limitation---as---to---the---source---from---which---such---services are---available;

iii) situations---in---which---an---individual---contractor---has---a background---of---prior---knowledge---and---experience---which renders---uneconomic---the---use---of---the---Request---for---proposal;

Procedures:

A) Performance-Audit-Bodies---Request---for---Proposal---distribution:

The---Request---for---proposal---shall---be---distributed---to---all interested---parties---with---a---notice---to---submit---to---the---Office---of the---Auditor---General---at---least---10---days---prior---to---time---scheduled for---evaluation:

B) When---the---Auditor---General---determines---that---it---is---in---the---best interest---of---the---state---to---extend---a---time---period---to---submit Requests---for---Proposals---on---any---subject---matter---all---parties known---by---the---Office---of---the---Auditor---General---to---have---received

AUDITOR GENERAL

NOTICE OF PROPOSED AMENDMENT (S)

a) Request--for--proposal--shall--be--notified--of--the--closing date--
 Such extensions may be granted when:
 i+) the number--of--inadequate proposals received--within--the
 the period previously specified--is--not--sufficient--to
 form a basis for selection;
 ii+) it--is--obvious--on--the--basis--of--information submitted
 by interested parties--to--whom--Request--for--Proposal has
 have--been--issued--that--the--time--period--previously
 established--is--inadequate;
 5+) Performance Audit Duties--Request--for--proposal--evaluating--
 Non--explanation--of--the--time--specified--in--the--notice--to--submit--a
 Request--for--Proposal--the--Performance Audit Director shall--cause
 an--evaluation--to--be--made--of--all--Requests--for--Proposals--received--
 Performance Audit Duties--Execution of contract--Upon receipt
 of--a--unsatisfactory Request--for--Proposal--the--Performance Audit
 Director--shall--tender a contract--to perform the services to--the
 Auditor General or the Auditor General's designee--for--approval--
 6+) Information Systems--Audit--Batches--Whenever--possible--and
 practicable--the--Information Systems Audit Director shall--select
 individuals--on--basis--to--perform--Information Systems--Audits--that
 are--programmed--under--subsection--(f)(1)(A)--above--Non
 selecting--an--individual--or--firm--qualified--to--perform--the--audit
 the--Information Systems Audit Director shall--render a contract--to
 the--Auditor General--or--the--Auditor General's designee--for
 approval.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

AUDITOR GENERAL

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Purchases and Contracts
- 2) Code Citation: 44 Ill. Adm. Code 500
- 3) Section Numbers: 500.10
500.20
500.30
500.40
500.50
- 4) Statutory Authority: Implementing and authorized by Section 1-30(b) of the Illinois Procurement Code [30 ILCS 500/1-30(b)] and Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12]
- 5) A Complete Description of the Subjects and Issues Involved: Repeal of Standard Procurement Rules (44 Ill. Adm. Code 500).
- 6) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? Rules are being proposed at 44 Ill. Adm. Code 500 to replace these rules.
- 10) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Rebecca Patton
740 E. Ash St.
Springfield IL 62703
217/702-6658
TDD: 217/524-4646

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: All would be affected in circumstances where they do business or seek to do business with the Office of the Auditor General.

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NOTICE OF PROPOSED REPEALER

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1999

The full text of the Proposed Repealer begins on the next page:

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NOTICE OF PROPOSED REPEALER

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER I: AUDITOR GENERAL

PURCHASES AND CONTRACTS (REPEALED)

PART 500

PURCHASES AND CONTRACTS (REPEALED)

Section 500.10 Procurement of Goods and Services Without Bids

500.10	Procurement of Goods and Services Without Bids
500.20	Contracts
500.30	Office Supplies
500.40	Printing Supplies
500.50	Building

AUTHORITY: Implementing and authorized by the Illinois Purchasing Act (Ill. Rev. Stat. 1981, ch. 127, pars. 132.1 et seq.).

SOURCE: Rules of the Department of Audit filed and effective July 3, 1958; transferred to the Auditor General by P.A. 78-884 effective September 20, 1973; codified at 8 Ill. Reg. 18072; repealed at 24 Ill. Reg. _____, effective _____.

Section 500.10 Procurement of Goods and Services Without Bids

In the following instances goods and services will be procured after investigation as to the most economical source, considering convenience and necessity for early delivery or completion but without advertisement for bids and without asking for competitive bids:

- for personal services payable from an appropriation for personal services; and
- for services requiring professional, technical or artistic skills.

Section 500.20 Contracts

Contracts for the purchase of commodities or equipment which do not fall within one or more of the classes set forth in subparagraphs (a) through (b) of Section 500.10 will be made through the purchasing facilities of the Department of Central Management Services in accordance with the rules of that Department governing such purchases.

Section 500.30 Office Supplies

All Office Supplies furnished for the use of this Department shall be purchased in accordance with the rules of the Department of Central Management Services.

Section 500.40 Printing Supplies

AUDITOR GENERAL

NOTICE OF PROPOSED REPEALER

Purchases of printing paper, stationery, envelopes and printing shall be made in accordance with the rules of the Department of Central Management Services.

Section 500.50 Building

Plans, specifications and bid documents for repairs, maintenance, remodeling, renovation or construction of buildings may be procured from the Capital Development Board. Prospective bidders for such projects may be selected from the prequalification list, maintained by the Capital Development Board. All advertising or other solicitation for bids and the letting of the resulting contract to the lowest bidder shall be by and in the name of the Auditor General.

AUDITOR GENERAL

NOTICE OF PROPOSED RULES

Standard Procurement

Heading of the Part:	Standard Procurement	Code Citation:	44 Ill. Adm. Code 500
Section Numbers:	Proposed Action:	Section Numbers:	Proposed Action:
1)	New	500.10	New
2)	New	500.20	New
3)	New	500.30	New
	New	500.40	New
	New	500.50	New
	New	500.60	New
	New	500.70	New
	New	500.100	New
	New	500.110	New
	New	500.200	New
	New	500.210	New
	New	500.220	New
	New	500.230	New
	New	500.240	New
	New	500.250	New
	New	500.260	New
	New	500.270	New
	New	500.280	New
	New	500.290	New
	New	500.300	New
	New	500.310	New
	New	500.315	New
	New	500.320	New
	New	500.330	New
	New	500.340	New
	New	500.350	New
	New	500.360	New
	New	500.370	New
	New	500.380	New
	New	500.390	New
	New	500.400	New
	New	500.410	New
	New	500.420	New
	New	500.430	New
	New	500.500	New
	New	500.600	New
	New	500.700	New
	New	500.800	New
	New	500.900	New
	New	500.1000	New
	New	500.1010	New
	New	500.1020	New
	New	500.1030	New
	New	500.1040	New
	New	500.1050	New

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500.1060 New

500.1110 New

500.1120 New

500.1130 New

500.1140 New

500.1150 New

500.1160 New

500.1170 New

500.1180 New

500.1190 New

500.1200 New

500.1210 New

500.1220 New

500.1230 New

500.1240 New

500.1250 New

500.1260 New

500.1270 New

500.1280 New

500.1290 New

500.1300 New

500.1310 New

500.1320 New

500.1330 New

500.1400 New

500.1410 New

500.1500 New

500.1510 New

500.1520 New

500.1530 New

500.1540 New

500.1550 New

500.1560 New

500.1570 New

500.1580 New

500.1590 New

500.1600 New

500.1610 New

500.1620 New

AUDITOR GENERAL

NOTICE OF PROPOSED RULES

No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? Current procurement rules found at 44 Ill. Adm. Code 500 are being repealed and replaced with the rule proposed by this rulemaking.

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Rebecca Patton
 Office of the Auditor General
 740 E. Ash St.
 Springfield IL 62703
 217/782-6698
 TDD: 217/524-4646

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: All would be affected in circumstances where they do business or seek to do business with the Office of the Auditor General.

B) Reporting, bookkeeping or other procedures required for compliance: Vendors would have to provide information to be prequalified with the OAG or placed on a vendor list.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1999
 The full text of the Proposed Rule begins on the next page:

A) Complete Description of the Subjects and Issues Involved: Current procurement rules found at 44 Ill. Adm. Code 500 are repealed and portions of 74 Ill. Adm. Code 440.410 and 440.420 dealing with procurements are being amended to create a new set of rules implementing changes contained in the Illinois Procurement Code. The proposed rules describe procurement policies; the various methods of source selection, including the use of invitations for bids and requests for proposals; type and duration of contracts; preferences; procurement ethics; and various other elements of the procurement process.

5) 4) Statutory Authority: Implementing and authorized by Section 1-30(b) of the Illinois Procurement Code [30 ILCS 500/1-30(b)] and Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12].

6) Will this rulemaking replace an emergency rulemaking currently in effect?

AUDITOR GENERAL

NOTICE OF PROPOSED RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT

SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS

CHAPTER I: AUDITOR GENERAL

PART 500

STANDARD PROCUREMENT

SUBPART A: GENERAL

Section

500.10

Title

500.20

Policy

500.30

Application of Terms Used in This Part

500.40

Definition of Terms Used in This Part

500.50

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500.60

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500.70

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Small Business Specialist

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AUDITOR GENERAL

NOTICE OF PROPOSED RULES

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500.410

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500.1540	Records and Audits
500.1550	No Waiver of Sovereign Immunity
AUTHORITY:	Implementing and authorized by Section 1-3(b) of the Illinois Procurement Code [30 ILCS 500/1-3(b)] and Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12].
SOURCE:	Old Part repealed and new Part adopted at 24 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section	This Part may be cited as the Office of the Auditor General (OAG) Procurement Rules.
500.10	title

Section 500.20 Policy

All OAG procurements shall be accomplished in the most economical, expeditious and commercially reasonable manner that is in accordance with statute, this Part and other applicable rules.
Section 500.30 Application

- a) This Part applies to all procurements by the OAG with a solicitation date on or after the effective date of this Part with the exception of the following:
 - 1) contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Part;
 - 2) grants;
 - 3) purchase of care;
 - 4) hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual;
 - 5) collective bargaining contracts;
 - 6) purchase of real estate; or
 - 7) contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the OAG chief legal counsel shall give his or her prior approval.
- Anticipated litigation is which the OAG may prosecute or defend before a court or administrative body and actions necessary to prepare for and conduct the effective legal prosecution or defense of litigation, including, but not limited to, the retention of counsel, investigators, expert witnesses and court reporters.

- b) Nothing in this Part shall be construed to affect or impair any

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contract, or any provision of a contract, entered into based on a solicitation prior to the effective date of this Part.

Section 500.40 Definition of Terms Used in This Part

As used throughout this Part, each term listed in this Section shall have the meaning set forth below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Bid" - The response to an Invitation for Bids.

"Bidder" - The person or entity submitting a bid.

"Brand Name or Equal Specification" - A specification that uses one or more manufacturer's names or catalog numbers to describe the standard of quality, performance, and other characteristics needed to meet OAG requirements, and that allows the submission of equivalent products.

"Brand Name Specification" - A specification limited to one or more items by manufacturers' names or catalog numbers.

"Code" - The Illinois Procurement Code [30 ILCS 500].

"Consulting Services" - Services provided by business or person, an independent contractor to advise and assist the OAG in solving specific management or programmatic problems involving the organization, planning, direction, control or operations of a State agency. The services may or may not rise to the level of professional and artistic as defined in this Part.

"Contract" - A contract may be in written or oral form. The term contract as used in this Part does not include supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission. The term contract includes, but is not limited to, purchase, installment purchase, lease and rental contracts.

"Contractor" or "Vendor" - The terms contractor and vendor are used interchangeably for purposes of this Part.

"Day" - Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"DCMS" or "CMS" - The Department of Central Management Services.

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"Invitation for Bids" or "IFB" - The process by which the OAG requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids.

"Items" - Anything that may be procured under this Part.

"OAG" - The Office of the Auditor General.

"Offer" - A bid, proposal or response solicited by the OAG.

"Procurement Officer" - One or more OAG employees who serve at the direction of the Chief Procurement Officer of the OAG (CPO) and are responsible for conducting OAG procurement activity.

"Proposal" - The response to a Request for Proposals.

"Proposer" - The person or entity submitting a proposal.

"Qualified Products List" - An approved list of supplies described by model or catalog numbers that, prior to competitive solicitation, the OAG has determined will meet the applicable specification requirements.

"Request for Information" or "RFI" - The process by which the OAG requests information from offerors for OAG contracts for leases of real property or capital improvements.

"Request for Proposals" or "RFP" - The process by which the OAG requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals.

"Respondent" - The person or entity submitting a response to a Request for Information from the OAG.

"Response" - A response to a Request for Information.

"Responsible Offeror" - A person or entity that is capable in all respects of performing fully the contract requirements and has the integrity and reliability that will assure good faith performance.

"Responsive Offeror" - A person or entity that has submitted an offer conforming in all material respects to the solicitation.

"Service" - The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than

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reports or supplies that are incidental to the required performance and the financing thereof.

"Solicitation" - An Invitation for Bids, Request for Proposals or Request for Information.

"Specification" - Any description of the physical, functional, or performance characteristics, or of the nature of a supply, service or construction item. A specification includes, as appropriate, requirements for inspecting, testing or preparing a supply, service or construction item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

"Specification for a Common or General Use Item" - A specification that has been developed and approved for repeated use in procurements.

"Supplies" - All personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies.

Section 500.50 Property Rights

Receipt of a solicitation or submission of any offer confers no right to receive an award or contract, nor does it obligate the State in any manner.

Section 500.60 Department of Central Management Services

a) To the extent practicable and available, the OAG may obtain the following goods and services from or through CMS without soliciting independent bids, proposals or responses:

- 1) employee benefits authorized under the State Employees Group Insurance Act or other law;
- 2) financing of any procurement;
- 3) paper, stationery and envelopes, and any other goods or services available from the Paper and Printing Warehouse;
- 4) postage stamps;
- 5) property, casualty, liability and other insurance and bonds;
- 6) telecommunications equipment, services and software;
- 7) utilities;
- 8) vehicles and vehicle services, including fleet management and repairs;
- 9) electronic data processing services, including Central Computing Facility services;
- 10) leases of real estate and any capital improvements to leased real estate for OAG use; and
- 11) any other supplies and services, including those available through master, scheduled or open-ended contracts established by

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CMS. b) The CPO may submit purchase requests to CMS in accordance with CMS rules.

Section 500.70 Capital Development Board

Any construction or construction-related professional and artistic services in excess of \$30,000 necessary for the OAG will be procured by the CPO of the Capital Development Board or of CMS. Any request for such services will be submitted to CPO-CDB or CPO-CMS in accordance with CDB or CMS rules. In the event of an emergency, the CPO may arrange for such construction as is necessary to protect the property and records of the OAG pending the making of arrangements with CDB or CMS.

SUBPART B: PROCUREMENT AUTHORITY

Section 500.100 Conduct of Procurements

The Auditor General or his or her designee shall serve as Chief Procurement Officer (CPO) for purposes of this Part, and may conduct any or all procurements for the OAG. The CPO may appoint one or more Procurement Officers to conduct procurements on behalf of the CPO in accordance with conditions specified in the terms of the appointment and this Part.

Section 500.110 Small Business Specialist

The CPO, subject to the Auditor General's approval, may designate an OAG employee with experience negotiating contracts to serve as the Small Business Specialist.

SUBPART C: PUBLICIZING PROCUREMENT ACTIONS

Section 500.200 Auditor General Volume of Illinois Procurement Bulletin

The Auditor General Volume of the Illinois Procurement Bulletin (Auditor General Bulletin) will contain procurement information relating to procurements under the responsibility of the OAG.

Section 500.210 Publication of Auditor General Bulletin

The Auditor General Bulletin will be published electronically and will be updated at least once per month and may be updated frequently as daily. In the event a fee is charged for subscriptions to the Auditor General Bulletin, free access to the information published in the Auditor General Bulletin will be made available at OAG offices and to interested public libraries or other sites open to the general public.

Section 500.220 Required Use of Auditor General Bulletin

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Notice of any procurement action required by this Part to be publicized will be published in the Auditor General Bulletin.

Section 500.230 Supplemental Notice

The OAG may place advertisements in the Official State Newspaper selected by CMS or other publications to supplement notice in the Auditor General Bulletin. In the event the Auditor General Bulletin cannot be published, the Official State Newspaper may be used as a substitute for the Auditor General Bulletin.

Section 500.240 Error in Notice

When a required publication contains an error, the error may be corrected by a single notice published in the Auditor General Bulletin.

Section 500.250 Direct Solicitation

In addition to giving notice in the Auditor General Bulletin, if required, the OAG may directly contact prospective vendors. Direct solicitation may be oral or in writing, but care should be taken to ensure that all vendors solicited in this manner receive the same information. No direct solicitation shall be made prior to the date any required notice first appears in the Auditor General Bulletin.

SUBPART D: SOURCE SELECTION AND CONTRACT FORMATION**Section 500.300 General Provisions****a) Late Offers, Late Withdrawals and Late Modifications**

1) Definition. Any offer received after the time and date for receipt, or at other than the specified location, is late. An offer that is delivered to the wrong location, but that is subsequently delivered to the correct location by the date and time specified shall be considered, but the OAG shall not be responsible for ensuring such subsequent delivery. Any withdrawal or modification of an offer received after the time and date set for opening of offers, or at other than the specified location, is late.

2) Treatment. No late offer, late modification, or late withdrawal will be considered unless the CFO, and not a designer, determines it would have been timely but for the action or inaction of OAG personnel directly serving the procurement activity (e.g., providing the wrong address). Records shall be made and, in accordance with OAG policy, kept for each late offer, late modification, or late withdrawal.

3) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late offer.

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b) Extension of Time

- 1) The Procurement Officer may, prior to the date or time for submitting or modifying an offer, extend the date or time for the convenience of the OAG.
- 2) After opening offers, the Procurement Officer may request offerors who submitted timely offers to extend the time during which the OAG may accept the offers, provided that, with regard to bids, no other change is permitted. This extension does not provide an opportunity for others to submit offers.

c) Electronic and Facsimile Submissions

- 1) The solicitation may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the solicitation.
- 2) Electronic submissions will be opened in accordance with OAG electronic security measures in effect at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.
- 3) Fax submissions will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.

d) Intent to Submit

The solicitation may require that vendors submit, by a certain time and date, a notice of their intent to submit an offer in response to the solicitation. Offers submitted without complying with the notice of intent requirement may be rejected.

e) Only One Offer Received

If only one offer is received, an award may be made to the single offeror, if the Procurement Officer finds that the price submitted is fair and reasonable, and that either other prospective offerors had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise:

- 1) new offers may be solicited, including under sole source (Section 500.340) or emergency (Section 500.350) procedures; or
- 2) the procurement may be canceled.

f) Alternate or Multiple Offers

- 1) Alternate offers may be accepted if:
 - A) permitted by the solicitation and in accordance with instructions in the solicitation; or
 - B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 500.340 (Sole Economically Feasible Source Procurement) of this Part; or
 - C) the low offeror, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the

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2) Multiple offers may be accepted if:

- A) permitted by the solicitation and submitted in accordance with instructions in the solicitation; or
- B) only one vendor responded, then, one or more of the submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.

g) Multiple Items

A solicitation may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.

h) "All or None" Offers

All or none offers may be accepted if the evaluation shows an all or none award to be the lowest cost or best value of those submitted.

i) Conditioning Offers Upon Other Awards

Any offer that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:

- 1) be rejected unless the vendor removes the condition; or
- 2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other solicitation provided the agency need not delay procurement actions to accommodate the vendor's all or none condition.

j) Unsolicited Offers

- 1) Processing of Unsolicited Offers. The Procurement Officer may consider unsolicited offers.
- 2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the OAG.
- 3) Award. An award may not be made based on an unsolicited offer in place of the notice and competition requirements of this Part except if that unsolicited offer meets the requirements for a small (Section 500.330), sole source (Section 500.340), or emergency (Section 500.350) procurement.

k) Clarification of Offers

The Procurement Officer may request that a vendor clarify its offer as a part of the evaluation process. A vendor shall not be allowed to materially change its offer in response to a request for clarification. A clarification is not an opportunity to make changes or for submission of best and finals as authorized elsewhere in this Part.

l) Supplementary Purchases

- 1) Supplementary purchases will be permitted under the following conditions: When the OAG issues an award after following the sealed bid or sealed proposal procedure, it may, at any time within 90 days thereafter, issue additional purchase orders or contracts to the same contractor or amendments to the original purchase order or

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contract for an additional quantity at the same unit price and on the same terms and conditions, if:

- A) the contractor indicates that the additional purchase orders or contracts will be accepted if issued;
- B) the market price of the commodities, services, or equipment in question has not gone down since the original purchase;
- C) the amount of the additional purchases is not of such magnitude as to constitute variation from the first purchase order or contract.

2) Notices of supplementary purchases in excess of the small purchase limits shall be published in the next available Auditor General Bulletin.

m) Assignment, Novation or Change of Name

- 1) Assignment. No OAG contract is transferable, or otherwise assignable, without the written consent of the Procurement Officer, provided, however, that a vendor may assign money receivable under a contract after due notice to the OAG. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the OAG; and
- 2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:

- A) the transferee assumes all of the transferor's obligations;
- B) the transferee meets all requirements for contracting with the OAG;
- C) the transferor waives all rights under the contract as against the OAG; and
- D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the OAG, furnish a satisfactory performance bond.

3) Change of Name. A vendor may submit a written request to change the name in which it holds a contract with the OAG. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.

n) Use of Source Selection Method that is Not Required

If a method of source selection is used that it is not, by law, required (e.g., use of a competitive sealed bid for a small purchase), strict compliance with the rules governing the method of source selection used is not required.

o) Vendor Signature

An offer submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the Procurement Officer within the time specified by that officer.

p) Stringing or planning procurements to avoid use of competitive procedures (stringing) is prohibited.

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q) Confidential Data
Vendors must clearly identify in writing any information that is exempt from the disclosure requirement of the Illinois Freedom of Information Act [5 ILCS 140] and must request special handling of that material.

Section 500.310 Competitive Sealed Bidding

- a) Application
Competitive sealed bidding is the required method of source selection except as allowed by this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.
 - b) The invitation for Bids
 - 1) Use. The Invitation for Bids (IFB) is used to initiate a competitive sealed bid procurement, at a minimum, the following:
 - A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, and the maximum time for bid acceptance;
 - B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and
 - C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
 - 3) Incorporation by Reference. The IFB may incorporate documents by reference provided that the IFB specifies where such documents can be obtained.
 - c) Bidding Time
Bidding time is the period of time between the date of notice or distribution of the IFB and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by this Part.
 - d) Bid Submissions
Bid Form. The IFB may include a form or format for submitting bids. If a form or format is specified, vendor shall submit bids as instructed.
 - e) Public Notice
 - 1) Publication. Every new procurement for supplies and services in excess of the small purchase amount that must be procured using an IFB shall be publicized in the Auditor General Bulletin at least 14 days before the date set for bid opening. A minimum of 14 days shall be provided for bid opening.
 - 2) Public Availability. A copy of the IFB shall be made available for public inspection.
 - 3) Distribution. IFBs or Notices of the Availability of Invitations

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for bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall, at a minimum, indicate where the IFB may be obtained, generally describe what is needed, and indicate the due date for bids. Where appropriate, the Procurement Officer may require payment of a fee or a deposit for supplying the IFB.

f) Pre-Bid Conference

Pre-Bid conferences may be conducted to enhance understanding of the procurement requirements. The pre-bid conference shall be announced as part of the IFB or, if the IFB has been issued, to all prospective bidders known to have received an IFB. The conference may be designated as attendance mandatory or attendance optional. The conference should be held long enough after the IFB has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparation of bids. Nothing stated at the pre-bid conference shall change the IFB unless a change is made by written amendment to the IFB. Minutes of the conference shall be supplied to all those prospective bidders known to have received an IFB, unless the conference is mandatory, in which case the minutes shall be supplied to attendees only.

g) Amendments to Invitations for Bids

1) Form. Amendments to IFBs shall be clearly identified and shall reference the portion of the IFB being amended.

- 2) Distribution. Amendments shall be sent to all prospective bidders known to have received an IFB.
- 3) Timeliness. Amendments shall be made available within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.

h) Pre-Opening Modification or Withdrawal of Bids

1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the IFB prior to the time and date set for bid opening. The amendment shall extend the time and date set for bid opening.

- 2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.
- 3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

i) Receipt, Opening and Recording of Bids

1) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall be opened.

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2) Opening and Recording

- A) Bids and modifications shall be opened publicly at the time, date, and place designated in the IFB. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer shall be recorded and the name of each bidder read aloud or otherwise made available. The name of the witness shall also be recorded at the opening.
- B) All bids, except as otherwise provided in subsection (1)(3) of this Section, and the bid record, shall be available for public inspection after award.
- 3) Confidential Data. The Procurement Officer shall examine the bids to determine the validity of any written requests for nondisclosure of trade secrets or other proprietary data. If the parties do not agree as to the disclosure of data or other information, the bid shall be rejected as nonresponsive.
- j) Bid Evaluation and Award

- 1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the IFB, except as permitted by this Part. The IFB shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the IFB.
- 2) Responsibility. Responsibility of prospective vendors is covered by Section 500.430 (Responsibility) of this Part.
- 3) Responsiveness. A bid must conform in all material respects to the IFB.

A) Product or Service Acceptability. The IFB shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:

- i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
- ii) examination of such elements as appearance, finish, taste, or feel;
- iii) other examinations to determine whether it conforms with any other purchase description requirements.

B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set

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forth in the IFB. Any bidder's offering that does not meet the acceptability requirements shall be rejected.

4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the OAG in accordance with the evaluation criteria set forth in the IFB. Only objectively measurable criteria that are set forth in the IFB shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost, administrative cost, and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall be reasonable estimates based upon information the OAG has available concerning future use and shall provide for the equitable treatment of all bids.

5) Price Negotiation. Negotiations are permitted with the low bidder to obtain a lower price for the item bid.

k) Documentation of Award

Following award, a record showing the successful bidder shall be made a part of the procurement file.

l) Award to Other Than Low Bidder

- 1) The Procurement Officer may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. The name of the bidder selected, pricing, and the reasons for selecting this bidder instead of the low bidder must be published in the Auditor General Bulletin.
- 2) This action may be appropriate when the difference in quality or speed of delivery is so great as compared to the difference in price, and considering the OAG's needs, that a best value award is justified. However, if the difference in price is significant, the Procurement Officer may not utilize this provision.

m) Publicizing Award

The successful bidder shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchases limit set in Section 500.330 (Small Purchases) of this Part, notice of award shall be published in the Auditor General Bulletin.

Section 500.315 Multi-Step Sealed Bidding

When it is considered impracticable to initially prepare a definitive purchase description to support an award based on price, an IFB may be issued requesting the submission of unpriced offers to be followed by those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

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Section 500.320 Competitive Sealed Proposals

a) The competitive sealed proposal method of source selection shall be used to procure professional and artistic services, except as otherwise provided in subsection (b) of this Section. Other supplies and services may be procured through the competitive sealed proposal method of source selection, on a case-by-case basis, when it is determined by the Procurement Officer that competitive sealed bidding is either not practicable or advantageous.

1) "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 500/1-15.60].

"practicable" Distinguished from "advantageous". As used in this section, "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the State's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest.

A) Factors to be considered in determining whether competitive sealed bidding is not practicable include:

- i) whether the contract needs to be other than a fixed-price type;
- ii) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
- iii) whether offerors may need to be afforded the opportunity to revise their proposals, including price;

iv) whether award may need to be based upon a comparative evaluation, as stated in the RFP, of differing price, quality and contractual factors in order to determine the most advantageous offering to the State. Quality factors include technical and performance capability and the content of the technical proposal; and

v) whether the primary consideration in determining award may not be price.

B) Factors to be considered in determining whether competitive sealed bidding is not advantageous include:

- i) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State; and
- ii) whether the factors listed in subsection (a)(2)(A) of this Section are desirable, in conducting a procurement, rather than necessary.

b) All new procurements of professional and artistic services shall be

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made using the procedures contained in this Section, except:

- 1) procurements under Section 500.320 (Small Purchases);
- 2) procurements under Section 500.340 (Sole Source Procurements);
- 3) procurements under Section 500.350 (Emergency Procurements);
- 4) procurements of contract audit services pursuant to subsection (c) of this Section; and
- 5) procurements subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535].

c) Contract Audit Rotation

- 1) Auditor Retention Policy. Initial audits by a contractor involve audit hours to identify key records and personnel, become familiar with agency operations and the electronic data processing environment, determine what internal controls and procedures are in place, and develop agency specific audit programs. Retaining a contractor for successive audits of the same agency generally allows audits to be conducted more economically, efficiently and effectively, and minimizes audit effort by both the contractor and the agency under audit. Professional auditing standards generally recognize the importance of an auditor retention policy.
- 2) Rotation Policy. To maximize the efficiencies obtained by auditor retention, it is the OAG's general policy, subject to the OAG's sole discretion, to maintain the same contractor on an audit engagement for six successive fiscal years, subject to performance review, the satisfactory negotiation of terms (including price) and the annual availability of an appropriation.

d) Contents

The RFP shall be in the form specified by the Procurement Officer and shall contain at least the following information:

- 1) instructions and information to proposers concerning the proposal submission requirements, including the time and date set for receipt of proposals and the address of the office to which proposals are to be delivered;
- 2) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description;
- 3) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:
 - A) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
 - B) the abilities, qualifications, and experience of key persons who would be assigned to provide the required services;
 - C) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the RFP;

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D) a plan, giving as much detail as is practical, explaining how the services will be performed; and
 4) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package).

e) prequalification

The Procurement Officer shall maintain a list of prequalified professional and artistic vendors in accordance with Section 500.420 of this Part. Persons may amend statements of qualifications at any time by filing a new statement. Failure of a professional and artistic vendor to prequalify shall not be cause for rejection of a proposal provided that the responsive offeror supplies with its proposal all information defined by the prequalification process.

f) Public Notice

- 1) Proposals shall be obtained by issuing an RFP. Notice of Intent to Issue an RFP may be made by the Procurement Officer.
- 2) Availability of the RFP shall be published in the Auditor General Bulletin at least 14 days before proposals are due.
- 3) The RFP shall also be distributed to prequalified persons expressing interest in performing the services required by the proposed contract.

g) Pre-proposal Conference

A pre-proposal conference, if appropriate, shall be conducted in accordance with Section 500.310(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.

h) Receipt and Registration of Proposals

Proposals shall not be opened publicly but shall be opened in the presence of at least one witness. Proposals and modifications shall be time-stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of proposals, a register of proposals shall be prepared which shall include for all proposals the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service offered. All proposals, except as otherwise provided in subsection (i) of this Section, and the Register of Proposals, shall be available for public inspection after award.

i) Confidential Data

The Procurement Officer shall examine the proposals to determine the validity of any written requests from the vendor for nondisclosure of trade secrets or other proprietary data. If the parties do not agree as to the disclosure of data or other information, the proposal shall be rejected as non-responsive.

j) Evaluation of Proposals

The evaluation shall be based on the evaluation factors set forth in the RFP. Factors not specified in the RFP shall not be considered.

k) Discussions Permissible

The Procurement Officer may conduct discussions with any offeror to:

- A) promote understanding of the OAG's requirements and the offerors' proposals;
- B) determine in greater detail such offeror's qualifications;
- C) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach; and
- D) facilitate arriving at a contract that will be most advantageous to the OAG, taking into consideration price and the other evaluation factors set forth in the RFP.

The Procurement Officer may allow changes to the proposal based on those discussions.

l) Notice of Subcontractor

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discussions with any offeror to:

- 1) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and information contained in proposals shall not be disclosed until after award of the proposed contract has been made.
- 2) Best and Final Offers. The procurement officer may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The procurement officer may conduct additional discussions or change the OAG's requirements and require another submission of best and final offers. The scope of the best and final and the number of offerors allowed to participate shall be defined by the procurement officer. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediately previous offer will be construed as its best and final offer.
- 3) Nothing in this Section shall prohibit the Procurement Officer from making a selection that represents the best value, qualifications, price and other relevant factors established in the RFP being considered. The Procurement Officer may, in considering best value, determine the proposal from a fully qualified vendor that submitted the lowest price to be the best value without further evaluation.
- 4) Award

An award shall be made by the Procurement Officer pursuant to a written determination showing the basis on which the award was found to be most advantageous to the OAG, based on the factors set forth in the RFP.

m) Publicizing Awards

The successful offeror shall be notified of award and such notification may be in the form of a letter, purchase order, or other clear communication. When the award exceeds the small purchase limit set in Section 500.330 of this Part, notice of award shall be published in the Auditor General Bulletin.

n) Notice of Subcontractor

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any contract for professional and artistic services entered into under this Section 500.320 shall state whether the services of a subcontractor will be used. The contract shall include the names and addresses of all subcontractors and the expected amount of money each will receive under the contract. If at any time during the term of a contract, a contractor adds or changes any subcontractors, the contractor shall promptly notify, in writing, the Procurement Officer of the names and addresses and the expected amount of money each new or replaced subcontractor will receive.

o) Pre-solicitation Request for Information

When the Procurement Officer does not have sufficient information about available supplies or services to issue an RFP, the Procurement Officer may issue a pre-solicitation request for information inviting vendors to submit non-price information about the availability of specified types of supplies or services. Public notice of the pre-solicitation request for information shall be published in the Auditor General Bulletin at least 14 days before the date set for the receipt of information. The submission of information by a vendor in response to a pre-solicitation request for information is not a prerequisite for that vendor to respond to a subsequent IFB or RFP for the types of supplies or services for which information was solicited and the issuance of a pre-solicitation request for information does not commit the OAG to make any procurement of supplies or services of any kind. Confidential information will not be accepted from a vendor in response to a pre-solicitation request for information.

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the type of procurement (see subsection (a) above), if, after signing the contract, the actual cost of completing the contract is determined to exceed the small purchase amount, and the Procurement Officer determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the Procurement Officer must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.

Section 500.340 Sole Economically Feasible Source Procurement

a) Application
The provisions of this Section apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section 500.330 (Small Purchases) or unless emergency conditions exist as defined in Section 500.350 (Emergency Procurements) of this Part.
b) Conditions for Use of Sole Source Procurement
Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:
1) where the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;

2) where a sole supplier's items are needed for trial use or testing;
3) where a sole supplier's item is to be procured for commercial resale;
4) where public utility regulated services are to be procured;
5) where the item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;
6) the procurement of the media for advertising;
7) the procurement of art, educational (including training for continuing professional education) or entertainment services; and
8) changes to existing contracts (see subsection (c)).
c) Changes
1) Changes to an existing contract that are germane and reasonable in scope and cost in relation to the original contract or program, that are necessary or desirable to complete the contract or program, and that can be best accomplished by the contract holder may be procured under this Section when the Procurement Officer determines that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly indicate that the existing vendor is the sole economically

a) Application
1) Procurements of \$25,000 or less for supplies or services, other than professional and artistic, of less than \$20,000 for professional and artistic services, and of \$30,000 or less for construction, may be made without notice, competition or use of any prescribed method of source selection.
2) Any change identified by the United States Department of Labor in the Consumer Price Index, as certified by CMS, for All Urban consumers for the period ending December 31, 1998, and for each year thereafter, shall be used to calculate the small purchase maximums that shall be applicable for the fiscal year beginning July 1, 1999. The small purchase maximums shall be likewise recalculated for each July thereafter.
b) In determining whether a contract is under the limit, the stated value of the supplies or services, plus any optional supplies and services, determined in good faith, shall be utilized. Where the value is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.
c) If only a unit price or hourly rate is known, the contract shall be considered small and shall have a not to exceed limit applicable to

Section 500.330 Small Purchases

a) Application
1) Procurements of \$25,000 or less for supplies or services, other than professional and artistic, of less than \$20,000 for professional and artistic services, and of \$30,000 or less for construction, may be made without notice, competition or use of any prescribed method of source selection.
2) Any change identified by the United States Department of Labor in the Consumer Price Index, as certified by CMS, for All Urban consumers for the period ending December 31, 1998, and for each year thereafter, shall be used to calculate the small purchase maximums that shall be applicable for the fiscal year beginning July 1, 1999. The small purchase maximums shall be likewise recalculated for each July thereafter.
b) In determining whether a contract is under the limit, the stated value of the supplies or services, plus any optional supplies and services, determined in good faith, shall be utilized. Where the value is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.
c) If only a unit price or hourly rate is known, the contract shall be considered small and shall have a not to exceed limit applicable to

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feasible source.

- 2) A change (whether in cost or rate) that does not exceed the applicable small purchase limit as defined in Section 500.330 of this Part, or that is an emergency as defined in Section 500.330 of this Part, may be made in accordance with procedures governing those Sections and need not comply with these sole source procedures.

d) Procurement Officer to Determine
The Procurement Officer shall determine whether a procurement shall be made as a sole source. The determination and its basis shall be in writing.

e) Publication of Sole Source Notice
The Procurement Officer shall publish in the Auditor General Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.

- 1) If no challenge to this determination is made by a vendor within the 14 day period, the OAG may execute a contract with that vendor.
- 2) If a challenge is received, the Procurement Officer shall consider the information and shall commence a competitive procurement if the Procurement Officer determines that more than one economically feasible source may be available and the sole source designation is not appropriate, unless an emergency situation exists.

f) Negotiation in Sole Source Procurement
The Procurement Officer shall conduct negotiations, as appropriate, to reach contract terms, including price, and shall maintain a record of each sole source procurement showing:

- 1) the vendor's name;
- 2) the amount and type of the contract;
- 3) what was procured; and
- 4) the identification number of the contract file.

Section 500.350 Emergency Procurements

a) Application
The provisions of this Section apply to every procurement over the small purchase limit set in Section 500.330 (small purchases) of this Part and that is not a sole source procurement under Section 500.330 of this Part made under emergency, including quick purchase, conditions.

b) Definition of Emergency Conditions
Procurements may be made under this Section 500.350 in the following circumstances:

- 1) Traditional circumstances include but are not limited to:
 - A) public health or safety, including the health or safety of any particular person, is threatened;
 - B) immediate repairs are needed to OAG property to protect

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against further loss or damage to OAG property, or to prevent loss or damage to OAG property; or minimize serious disruption in OAG services;

C) action is needed to ensure the integrity of OAG records; equipment or services are necessary in the furtherance of covert activities (including the conduct of audits and investigations) lawfully conducted by the OAG. Any required disclosures may be postponed or shall be made as not to jeopardize those covert activities;

D) immediate action is necessary to avoid lapsing or loss of federal or donated funds; or

E) the need for items to protect or further OAG interests is immediate and use of other competitive source selection procedures under this Part cannot be accomplished without significant risk of causing serious disadvantage to the OAG.

F) After Unsuccessful Competitive Sealed Bidding or Request For Proposals, when bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or non-competitive, or the price exceeds available funds and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding or competitive sealed proposals, an emergency procurement may be made.

G) Extension to Allow Competition. Extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the OAG.

H) Quick Purchase

A) A supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the OAG than instituting a competitive procurement under the provisions of this Part for the supplies or services;

B) Items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;

C) availability of rare items, such as books of historical value;

D) the procurement is for entertainment.

c) Scope of Emergency Conditions
Emergency procurements shall be limited to those supplies, services or construction items necessary to meet the emergency.

d) Source Selection Methods
Any method of source selection, whether or not identified in this Part, may be used to conduct the procurement in emergency situations.

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The procedure used shall be selected to assure that the required items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.

e) Determination and Record of Emergency Procurement

1) Determination. The Procurement Officer shall make a written determination stating the basis for an emergency procurement and the selection of the particular contractor. Such

determinations shall be kept in the contract file.

2) Record. An affidavit of each emergency procurement shall be filed with the Auditor General within 10 days after the procurement and shall include the following information:

- A) the vendor's name;
- B) the amount and type of the contract, provided that if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known;
- C) a description of what the vendor will do or provide; and
- D) the reasons for using the emergency method of source selection.

3) Notice of the emergency procurement shall be published in the Auditor General Bulletin.

Section 500.360 Other Methods of Source Selection

Other methods of source selection, as defined by CMS in rules promulgated by i
(44 Ill. Adm. Code 1) may be used by the OAG when, in the CFO's best judgment such methods of source selection are in the State's best interests.

Section 500.370 Tie Bids and Proposals

a) Tie bids or proposals are those from responsive and responsible vendors that are identical in price or evaluation and represent the low price.

b) Tie bids or proposals will be treated as follows:

- 1) If the tied vendors include only one Illinois resident vendor, the Illinois resident vendor shall be given the award. "Illinois resident vendor" has the meaning given in Section 500.1110 (Resident Vendor Preference) of this Part. In all other situations, including if two or more Illinois resident bidders are tied, the decision shall be made in accordance with subsections (b)(2) through (5) of this Section.
- 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the OAG shall be given additional consideration in determining responsibility if the Procurement Officer determines that dealing with a vendor that has knowledge

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of OAG requirements, contracts, job sites, payment practices, and such other factors and with which there has been favorable past experience increases the likelihood of successful performance, but there is no significant difference in responsibility, but offered, the vendor offering the best quality will be accepted.

- 3) If there is no significant difference in the quality of the supplies or services offered, the agency requires delivery as early as possible.
- 4) If there is no significant difference in responsibility and no difference in quality of the supplies or services offered, the vendor offering the earliest delivery time will be accepted in any case in which the solicitation specifies that the needs of the agency require delivery as early as possible.
- 5) If the bids or proposals are equal in every respect, the award shall be made by lot unless the Procurement Officer determines that splitting the award among two or more of the tied vendors is in the best interest of the State. Awards may be split if all affected vendors agree, if splitting is feasible given the type of supplies or services requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.

c) Record. Records shall be made of all procurements on which tie bids or proposals are received, showing at least the following information:

- 1) the identification number of the solicitation;
- 2) a description of what was procured; and
- 3) a listing of all the offerors and the prices submitted.

Section 500.380 Mistakes

- a) General Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other offerors.
- b) Mistakes Discovered Before Opening of Bids

A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.

- c) Confirmation of Mistake When the Procurement Officer knows or has reason to conclude that a mistake has been made, such officer shall request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the offer may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.
- d) Mistakes in Bids Discovered After Opening but Before Award This subsection (d) sets forth procedures to be applied in situations in which mistakes in bids are discovered after the time and date set for bid opening but before award.

- 1) Minor Informalities. A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or

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inconsequential defect or variation of a bid from the exact requirement of the IFB, the correction or waiver of which would not be prejudicial to the State (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The Procurement Officer shall waive such informality or allow the bidder to correct them depending on which is in the best interest of the State. Examples of minor informality is to form include the failure of a bidder to:

- A) return the number of signed offers required by the IFB;
- B) acknowledge receipt of an amendment to the IFB, but only if:
 - i) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or
 - ii) the amendment involved had a negligible effect on price, quantity, quality, or delivery.
- 2) Mistakes Where Intended Correct Bid is Evident. If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transpositional errors, and arithmetical errors.
- 3) Mistakes Where Intended Correct Bid is Not Evident. A bidder may be permitted to withdraw a low bid if:
 - A) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - B) the bidder submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.
- e) Mistakes in Proposals Discovered After Receipt, but Before Award This subsection (e) sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.

- 1) During Discussions; Prior to Best and Final Offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake prior to the date set for conclusion of discussions or for receipt of best and final offers.
- 2) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this Section, shall be treated as they are under subsection (d).
- 3) Correction of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:
 - A) the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn; or
 - B) the mistake is not clearly evident on the face of the proposal, but the offeror submits adequate proof that

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clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other offerors.

4) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:

- A) the mistake is clearly evident on the face of the proposal and the intended correct offer is not;
- B) the offeror submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or
- C) the offeror submits adequate proof that clearly and convincingly demonstrates the intended correct offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.

f) Mistakes Discovered After Award

Mistakes shall not be corrected after award of the contract except where the Procurement Officer finds it would be unconscionable (e.g., if the mistake resulted in a windfall to the State) not to allow the mistake to be corrected.

g) Determinations Required

When a proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared showing that relief was granted or denied in accordance with this Part. The Procurement Officer shall prepare the determination.

Section 500.390 Cancellation of Solicitations; Rejection of Offers

- a) Scope of this Section
- b) The provisions of this Section shall govern the cancellation of any solicitations whether issued by the OAG under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of offers in whole or in part.
- c) Policy

Any solicitation may be canceled when the Procurement Officer believes cancellation to be in the OAG's best interest. Nothing shall compel the award of a contract.

Cancellation of Solicitation; Rejection of All Offers Prior to Opening

- 1) As used in this Section, "opening" means the date set for opening of bids, proposals or responses or receipt of unpriced technical offers in multi-step sealed bidding.
- 2) Prior to opening, a solicitation may be canceled in whole or in part when the Procurement Officer determines in writing that such action is in the OAG's best interest for reasons including, but not limited to:

A) the OAG no longer requires the supplies, services or

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construction; or

- B) the OAG no longer can reasonably expect to fund the procurement; or
- C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

3) When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses that responded to the solicitation.

4) The notice of cancellation shall:

- A) identify the solicitation;
- B) briefly explain the reason for cancellation; and
- C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies, services or construction.

d) Cancellation of Solicitation: Rejection of All Offers After Opening

- 1) After opening but prior to award, all offers may be rejected in whole or in part when the Procurement Officer determines in writing that such action is in the OAG's best interest. Such reasons may include, but are not limited to:

 - A) the supply, service or construction being procured is no longer required;
 - B) ambiguous or otherwise inadequate specifications were part of the solicitation;
 - C) the solicitation did not provide for consideration of all factors of significance to the OAG;
 - D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 - E) all otherwise acceptable offers received are at clearly unreasonable prices; or
 - F) there is reason to believe that the offers may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

2) When the solicitation is canceled or when all offers are rejected, all vendors who submitted offers shall be sent a notice upon request informing them of the reasons for the cancellation or rejection.

e) Documentation

The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

f) Rejection of Individual Offers

 - 1) General. This subsection (f) applies to rejections of individual offers in whole or in part.
 - 2) Notice in Solicitation. Each solicitation shall provide that any offer may be rejected in whole or in part when in the best interest of the OAG as provided in this Section.
 - 3) Reasons for Rejection. Reasons for rejecting an offer may include, but are not limited

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to:

- A) the business that submitted the offer is nonresponsible as determined under Section 500.430 (Responsibility) of this Part;
- B) the offer is not responsive, that is, it does not conform in all material respects to the solicitation;
- C) the offer ultimately (that is, after any opportunity has passed for alteration or clarification) fails to meet the announced requirements of the OAG in some material respect;
- D) the supply, service or construction item offered is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the solicitation; or
- E) the proposed price is clearly unreasonable.

4) Notice of Rejection. Upon request, unsuccessful offerors shall be advised of the reasons for rejection.

SUBPART E: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 500.400 Suppliers

The OAG may contract with any qualified source of supply, including the following special sources, from which procurements may be made without notice and competition:

- a) Correctional Industries;
- b) State and Federal Surplus Warehouses under the jurisdiction of CMS.

The State Property Control Act (30 ILCS 605/7a) requires that surplus furniture be considered before any purchase of new furniture valued at \$500 or more per piece;

- c) Qualified workshops for the disabled;
- d) State agencies and other governmental units.

Section 500.410 Vendor List/Required Use

The CFO may maintain a list of vendors interested in doing business with the OAG. The names and addresses of vendors on the list shall be available for public inspection.

Inclusion on, or exclusion from, the list shall not be a factor in determining whether a vendor is a responsible vendor.

- a) When vendors are directly solicited by the OAG, solicitations will be sent to vendors on the vendor list for the supplies or services in question, except in the following cases:
- b) The vendor does not sell the particular commodity or equipment.
- c) The number of vendors for a procurement classification is of such magnitude that optimum prices may reasonably be expected without soliciting the entire vendor list. The Procurement Officer may, if he/she determines that the best interest of the State would be

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served, rotate the selection from the list on any equitable basis.

- 3) The Procurement Officer determines that the best interest of the State will be served by limiting vendors to those in defined geographic areas (example: purchases of ready-mix concrete, perishables, and equipment requiring immediate service).
- 4) The CPO may alternatively refer to vendor lists maintained by CMS.

Section 500.420 Prequalification

a)

General

- 1) The CPO shall identify by publication in the Auditor General Bulletin the categories of supplies and services (including professional and artistic services) for which the OAG may prequalify vendors of those supplies and services. The OAG is not required to prequalify vendors but may do so when determination of a vendor's qualifications prior to procurement would be advantageous to the OAG.
- 2) An opportunity to prequalify shall be allowed at least one time each fiscal year. The opportunity to prequalify shall be announced in the Auditor General Bulletin. The notice shall alert vendors that failure to participate in the prequalification process may result in the vendor being ineligible to receive contracts.

- 3) When prequalifying a vendor, the Procurement Officer may limit prequalifications to determining whether a vendor has been and is likely to be "responsible" using the criteria set forth in Section 500.430 of this Part. The fact that a prospective vendor has been prequalified does not necessarily represent a finding of responsibility for a particular procurement.

- 4) When prequalifying a vendor, the Procurement Officer may consider factors tailored to a specific procurement or type of procurement, which shall be announced in the Auditor General Bulletin.

- 5) Except in the case of professional and artistic services, distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified. If eligibility for the procurement will be limited to prequalified vendors, the solicitation shall state that fact.

b)

Professional and Artistic Services

Any prequalification of vendors of professional and artistic services shall include, at a minimum, a specified level of:

- 1) education;
- 2) training;
- 3) experience; and
- 4) technical ability;

and may require certification or licensure, or membership in

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professional associations.

- c) Qualified Products List
- Qualified products lists are treated in Section 500.600 (Specifications) of this Part.

Section 500.430 Responsibility

a)

Application

Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the OAG's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.

- b)
- 1) Standards. Factors to be considered in determining whether the standard of responsibility has been met may include, but are not limited to, whether a prospective vendor:
 - A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements (the Procurement Officer may designate a level below which the vendor will be deemed "not responsible");
 - B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;
 - C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;
 - D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement, or that create a reasonable inference or appearance of a lack of integrity on the part of the vendor may be declared not responsible for the particular procurement;
 - E) is qualified legally to contract with the State;
 - F) has supplied all necessary information in connection with the inquiry concerning responsibility;
 - G) has a current Public Contracts number from the Illinois Department of Human Rights, pursuant to 44 Ill. Adm. Code 750.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination;
 - H) pays prevailing wages, if required by law; and
 - I) is current in payment of all State of Illinois taxes,

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including the unemployment insurance tax.

2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of such vendor. The OAG may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the Procurement Officer shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.

c) Written Determination of Nonresponsibility Required. If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the Procurement Officer. The final determination shall be made part of the procurement file.

d) Bond For Responsibility

Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required of such vendors.

e) Affiliated Companies

Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing vendor that has been determined not to be responsible will also be determined not to be responsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier determination of nonresponsibility.

SUBPART F: BID, PROPOSAL AND PERFORMANCE SECURITY

Section 500.500 Security Requirements

a) A Procurement Officer may require that a vendor furnish bid, proposal or performance security on OAG contracts. Whenever security is required, except as provided herein, the procurement document will clearly indicate the type and amount of security.

b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.

c) Unless the amount is set by law, the CPO will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests.

d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, Permissive/Mandatory Security.

e) 1) Bid or proposal security is permissible on any contract but is not

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appropriate on emergency or sole source procurements.

2) Performance security is permissible on any contract and is recommended on contracts calling for advance payment.

3) Performance security is required on all public works contracts.

f) A vendor may submit a single or continuous security each year that will be applicable on all contracts of the OAG. When such security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.

g) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

SUBPART G: SPECIFICATIONS

Section 500.600 Specifications

a) Responsibilities Regarding Specifications
The Procurement Officer is authorized to write specifications for procedures for the Development of Specifications

b) 1) All procurements shall be based on specifications that accurately reflect the OAG's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.

2) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate OAG needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.

3) Any specification or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.

4) A specification may provide alternate descriptions where two or more design, functional, or performance criteria will satisfactorily meet the OAG's requirements.

c) Brand Name or Equal Specification

1) Brand name or equal specifications may be used when the Procurement Officer determines in writing that:

A) no specification for a common or general use specification or qualified products list is available;

B) time does not permit the preparation of another form of specification, nor including a brand name specification;

C) the nature of the product or the nature of the OAG's requirement makes use of a brand name or equal specification.

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suitable for the procurement; or

- D) use of a brand name or equal specification is in the OAG's best interest.
- 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal," and shall further state that substantially equivalent products to those designated will be considered for award.
- 3) Unless the Procurement Officer determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.
- 4) Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction, or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the vendor.
- d) Brand Name Only Specification
 - 1) Determination. A brand name only specification may be used only when the Procurement Officer makes a written determination that only the identified brand name item or items will satisfy the OAG's needs.
 - 2) Use. Brand name alone may be specified in order to fill medical prescription needs, to stock State retail-type operations, to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the Procurement Officer. The OAG may, pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.
 - 3) Competition. The Procurement Officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 500.340 (Sole Economically Feasible Source Procurement) of this Part.
 - 4) Small and Emergency Procurements. Brand name only specifications may be used when procuring items under the small (Section 500.350 of this Part) and emergency (Section 500.350 of this Part) provisions of this Part.

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e) Qualified Products List

- 1) Use. A qualified products list may be developed by the Procurement Officer when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy OAG requirements.
- 2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.
- 3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.
- 4) Proven Products
- f) The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.
- g) Product Demonstration
- h) Specifications Prepared by Other Than OAG Personnel
 - 1) Specifications may be prepared by other than OAG personnel, including, but not limited to, other State personnel, consultants, architects, engineers, designers, and other drafters of specifications for public contracts. When the Procurement Officer determines that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the OAG, and provided the Procurement Officer retains the authority to finally approve the specifications, Contracts for the preparation of specifications by other than OAS personnel shall require the specification writer to adhere to OAG requirements.
 - 2) The person who prepared the specifications shall not submit an offset to meet the procurement need unless the CPO, and not a designee, determines in writing that it would be in the best interest of the OAG to accept such an offer from that person. A notice to that effect shall be published in the Auditor General Bulletin.

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SUBPART H: CONTRACT TYPE

Section 500.700 Types of Contracts

a) Subject to the limitations of this Section and unless otherwise authorized by law, any type of contract that will promote the best interests of the State may be used.

b) Prohibition of Cost-Plus-a-percentage-of-Cost Contracting. The cost-plus-a-percentage-of-cost contract is prohibited. This type of contracting may not be used alone or in conjunction with an authorized type of contract. A cost-plus-percentage-of-cost contract is one in which the vendor selects the supply or service on which the vendor's percentage is applied.

1) A percentage mark-up from an agreed price list is not a cost-plus-a-percentage-of-cost contract.

2) A percentage mark-up from the price of a supply or service selected by the State or another vendor under contract to the State is not a cost-plus-a-percentage-of-cost contract.

c) Option Provisions

When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. These options may be exercised without taking other procurement action when the option is established for exercise at the OAG's option or by mutual agreement.

d) State Produced Supplies and Services

Notwithstanding any provision in any contract, supplies or services available from the State's own programs, such as Correctional Industries, may be ordered without violating any contract.

SUBPART I: DURATION OF CONTRACTS

Section 500.800 Duration of Contracts

a) General

1) A multi-term contract for a term up to 10 years is authorized when determined by the Procurement Officer to be in the best interest of the State.

2) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10 years.

b) The contractual obligation of both parties in each fiscal period succeeding the first is subject to appropriation and availability of funds. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be canceled without penalty to, or further payment required by, the State. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.

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SUBPART J: CONTRACT MATTERS

NOTICE OF USE OF Multi-Term Contracts

c) Conditions for Use of Multi-Term Contracts

A multi-term contract may be used when:

- 1) special production of definite quantities or the furnishing of long term services is required to meet OAG needs; or
- 2) a multi-term contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in OAG procurement. The following factors are among those relevant to such a determination:
 - A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recovering such costs during the period of contract performance;
 - B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;
 - C) stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality; or
 - D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

d) Multi-Term Contract Procedure

The solicitation shall state:

- 1) the proposed term;
- 2) the amount of supplies or services required for the proposed contract period;
- 3) the type of pricing requested (e.g., firm for term);
- 4) how award will be determined.

e) Renewals

- 1) Renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract and the option is reserved solely to the OAG or by mutual agreement.
- 2) Where a renewal will result in the total term, counting the initial term and any previous renewals, to exceed 10 years, the renewal must be procured using one of the methods of source selection authorized by this Part. This renewal will start a new term that shall not exceed 10 years.

SUBPART J: CONTRACT MATTERS

Section 500.900 Prevailing Wage

a) In order to be considered responsible under Section 500.430, vendors of the following classifications of services must certify to the OAG that their employees are paid wages and benefits and are working under

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conditions prevalent in the location where the work is to be performed:

- 1) Printing;
- 2) Janitorial services, window washing, and security guard services having a monthly contract price of \$200 or a yearly price of \$22,000; and
- 3) Public works.

b) For purposes of this Section, "locality" or "location" shall have the meaning established in rules promulgated by OMS (see 44 Ill. Adm. Code 1.2560). Prevailing wages, benefits and conditions will be determined by the Illinois Department of Labor.

Section 500.910 Filing with Comptroller

a) Filing with Comptroller Whenever a contract liability, except for contracts paid from personal services or contracts between the OAG and its employees to defer compensation in accordance with Article 24 of the Illinois Pension Code, exceeding \$10,000 is incurred by the OAG, a copy of the contract, purchase order, or lease shall be filed with the Comptroller within 15 days thereafter. Any cancellation or modification to any such contract liability shall be filed with the Comptroller within 15 days after its execution.

b) Late Filing Affidavit When a contract, purchase order, or lease required to be filed by this Section has not been filed within 30 days after execution, the OAG must file with the Comptroller an affidavit, signed by the Auditor General or his or her designee, setting forth an explanation of why the contract liability was not filed within 30 days after execution. A copy of this affidavit shall be filed with the Auditor General.

c) Professional and Artistic Services Contracts No voucher shall be submitted to the Comptroller for a warrant to be drawn for the payment of money from the State treasury or from other funds held by the State Treasurer on account of any contract for services involving professional or artistic skills involving an expenditure of more than \$5,000 for the same type of services at the same location during any fiscal year unless the contract is reduced to writing before the services are performed and filed with the Comptroller. When a contract for professional or artistic skills in excess of \$5,000 was not reduced to writing before the services were performed, the Comptroller shall refuse to issue a warrant for payment for the services until the OAG files with the Comptroller:

- 1) a written contract covering the services; and
- 2) an affidavit, signed by the Auditor General or his or her designee, stating that the services for which payment is being made were agreed to before commencement of the services and setting forth an explanation of why the contract was not reduced

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to writing before the services commenced. A copy of this affidavit shall be filed with the Auditor General.

Section 500.920 Equal Employment Opportunity: Affirmative Action

a) Public Contracts

Every party to a public contract and every eligible bidder shall:

- 1) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
- 2) Comply with applicable procedures and requirements of the Department of Human Right's (DHR) regulations concerning equal employment opportunities and affirmative action;
- 3) Provide such information, with respect to its employees and applicants for employment, and assistance as DHR may reasonably request;
- 4) Have written sexual harassment policies that shall include, at a minimum, the following information:
 - A) the illegality of sexual harassment;
 - B) the definition of sexual harassment under State law;
 - C) a description of sexual harassment, utilizing examples;
 - D) the vendor's internal complaint process, including penalties;
 - E) the legal recourse, investigative and complaint process available through DHR and the Human Rights Commission;
 - F) directions on how to contact DHR and the Commission; and
 - G) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act (IRRA) (775 ICS 5).

A copy of the policies shall be provided to DHR upon request, and the DHR authorizes DHR to promulgate, policies, rules and regulations to implement the provisions of the IRRA applicable to eligible bidders and public contractors. DHR has promulgated rules, 44 Ill. Adm. Code 750, that establish public contractor and eligible bidder duties, obligations, and reporting requirements. These rules require that certain employers register with DHR in order to be eligible for the award of certain public contracts (44 Ill. Adm. Code 750 Appendix A).

SUBPART K: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Except as otherwise authorized or required by law, real property leases and capital improvement leases are subject to, and shall be procured by, the OAG in accordance with this Part.

Section 500.1010 Method of Source Selection

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Leases shall be procured by a Request for Information (RFI) process except that the process need not be used in any of the following circumstances:

- a) Property of less than 10,000 square feet.
- b) Rent of less than \$100,000 per year.
- c) Duration of less than one year that cannot be renewed.
- d) Specialized space available at only one location.
- e) Renewal or extension of leases after the effective date of this Part, provided that:
 - 1) the CPO determines in writing that renewal or extension is in the best interest of the State; and
 - 2) the CPO publishes notice of the renewal or extension in the Auditor General Bulletin.
- f) Leases with governmental units when deemed by the CPO to be in the best interest of the State.

Section 500.1020 Request for Information

a) RFI Form

When required, an RFI shall be issued and shall include:

- 1) the type of property to be leased;
- 2) the proposed uses of the property;
- 3) the duration of the lease;
- 4) the preferred location of the property; and
- 5) a general description of the configuration desired.

b) Public Notice
Public notice of the RFI for the availability of real property to lease shall be published in the Auditor General Bulletin at least 14 days before the date set forth in the request for receipt of responses and shall also be published in similar manner in a newspaper of general circulation in the community or communities where the OAG is seeking space.

c) Response

The RFI response shall consist of written information sufficient to show that the respondent can meet minimum criteria set forth in the RFI.
d) Negotiation and Determination
The Procurement Officer may enter into discussions with respondents of the RFI for the purpose of clarifying OAG needs and the information supplied by the respondents. On the basis of the information supplied and discussions, if any, the Procurement Officer shall make a written determination identifying the responses that meet the minimum criteria set forth in the RFI. Negotiations shall be entered into with all qualified respondents for the purpose of securing a lease that is in the best interest of the State.

e) Reporting and Filing
When the lowest response by price is not selected, a written report of the negotiation shall be retained in the lease files and shall include the reasons for the final selection.

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Section 500.1030 Lease Requirements

- a) Length of Leases
 - 1) Maximum term. Except where a longer term is authorized by law, leases shall be for a term not to exceed 10 years and shall include a termination option in favor of the OAG after 5 years.
 - 2) Renewal. Option. Leases may include a renewal option. An option to renew may be exercised only when the Procurement Officer determines in writing that renewal is in the best interest of the OAG and notice of the exercise of the option is published in the Auditor General Bulletin at least 60 days prior to the exercise of the option.
- b) Subject to Appropriation
All leases shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the lease.

Section 500.1040 Purchase Option

Initial leases of all space in entire, free-standing buildings shall include an option to purchase exercisable by the OAG, unless the CPO determines that inclusion of a purchase option is not in the OAG's best interest and makes that determination in writing along with the reasons for making that determination. The determination shall be published in the Auditor General Bulletin. Leases from governmental units and not-for-profit entities are exempt from the requirements of this Section.

Section 500.1050 Rent Without Occupancy

Except when deemed by the CPO to be in the best interest of the State, the OAG may not incur rental obligations before having occupancy or possession of the space rented.

Section 500.1060 Local Site Preferences

Upon the request of the chief executive officer of a unit of local government, leasing preferences may be given to sites located in enterprise zones, tax increment districts, or redevelopment districts.

SUBPART L: PREFERENCES

Section 500.1110 Resident Vendor Preference

- a) When a contract is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference as against a non-resident bidder from any state that gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the non-resident bidder.

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Further, if only non-resident bidders are bidding, the purchasing agency is within its right to specify that Illinois labor and manufacturing locations be used as a part of the manufacturing process, if applicable. This specification may be negotiated as part of the solicitation process. [30 ILCS 500/45-10(a)]

b) "Illinois resident vendor," as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any bid for a public contract is first advertised or announced.

c) In breaking a tie, an Illinois resident vendor shall be given the award.

d) This Section does not apply to any contract for any project as to which federal funds are available for expenditure when its provisions may be in conflict with federal law or federal regulation.

Section 500.1120 Soybean Oil-based Ink

Contracts requiring the procurement of printing services shall specify the use of soybean oil-based ink unless the Procurement Officer determines that another type of ink is required to assure high quality and reasonable Pricing of the printed product.

Section 500.1130 Recycled Materials

When a public contract is to be awarded to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of products made of recycled materials may, on a pilot basis or in accordance with a pilot study, be given preference over other bidders unable to do so, provided that the cost included in the bid of products made of recycled materials is not more than 10% greater than the cost of products not made of recycled materials. [30 ILCS 500/45-20]

Section 500.1140 Recyclable Paper

All paper purchased for use by State agencies must be recyclable paper unless recyclable paper cannot be used to meet the requirements of the State agencies. State agencies shall determine their paper requirements to allow the use of recyclable paper whenever possible, including without limitation using plain paper rather than colored paper that is not recyclable. [30 ILCS 500/45-25]

Section 500.1150 Correctional Industries

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The CPO shall make available to all Procurement Officers a listing of the supplies or services available from the Department of Corrections and shall identify those that must be purchased from Corrections. Those items that must be purchased from Corrections may not be purchased from any other source without the express written authorization of the CPO.

Procurement Officers are authorized to procure from Corrections without seeking competition or giving public notice, but must inform the CPO of all such purchases.

Section 500.1160 Sheltered Workshops for the Disabled

a) Use of Sheltered Workshops
The Procurement Officer may determine to contract with a sheltered workshop on the list maintained by the CPO for CMS, and may do so without notice or competition.

c) Pricing Approval
While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar supplies or services, the policy of the Code to promote procurements from sheltered workshops, and other such relevant factors.

Section 500.1170 Gas Mileage

a) Specifications for the purchase of new passenger automobiles shall require compliance with minimum gas mileage requirements established in Section 45-40 of the Code. As used in this Section, passenger automobile does not include station wagons, vans, four-wheel drive vehicles, emergency vehicles, or police or fire vehicles.

b) The CPO may exempt a procurement from the requirement of subsection (a) when a demonstrated need has been presented to the CPO in writing and approved by that officer.

Section 500.1180 Small Business

a) Set-aside
The Procurement Officer may determine categories of supplies or service procurements that will be set aside for small businesses located in Illinois. The set-aside designation may be made for current and future procurements of a specific supply, service or construction, or for a class of like supplies, services or construction. A set-aside designation may last indefinitely or for a stated period of time.

b) Small Business List
The Procurement Officer may develop its own list, or may use the list maintained by CMS or other appropriate State agency, of responsible

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vendors that meet the criteria of small business. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.

c)

If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.

d) Withdrawal of Set-Aside
If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Auditor General Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of this Part.

e) Criteria for Small Business Procurement
Unless the Procurement Officer provides a definition for a particular procurement that reflects industry characteristics, a small business is one:

- 1) Independently owned and operated. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining major influence, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

3) With annual sales for the most recently ended fiscal year no greater than:

A) \$7,500,000 for wholesale business;

B) \$3,000,000 for construction business; or

C) \$1,500,000 for retail business.

4) With no more than 250 employees if a manufacturing business.

A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.

B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.

5) If the business is any combination of retailer, wholesaler or

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construction business, then the annual sales for each component may not exceed the amounts shown in subsection (a)(3). For example, a business that is both a retailer and wholesaler may not have total sales exceeding \$9,000,000 and the retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$750,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed the number shown in subsection (e)(4).

6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

Section 500.1190 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

- a) Upon direction of the CFO, the OGC may establish goals and other such preferences for contracting or subcontracting with businesses owned and controlled by minorities, females and persons with disabilities.
- b) For purposes of this Section, the individuals claiming ownership and control must own at least 51% of the business.
- c) The CFO may refer to the list of businesses that have been certified by CMS under the Business Enterprise Act for Minorities, Females and Persons with Disabilities [30 ILCS 5/7].

SUBPART M: ETHICS

Section 500.1200 Bribery

- a) Prohibition
No person or business shall be awarded a contract or subcontract under this Code who:
 - 1) has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or
 - 2) has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.

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b) Businesses
No business shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:

- 1) the business has been finally adjudicated not guilty; or
- 2) the business demonstrates to the governmental entity with which it seeks to contract, and that entity finds that the commission of the offense was not authorized, requested, commanded, or performed by a director, officer, or high managerial agent on behalf of the business as provided in Section 5-4(a)(2) of the Criminal Code of 1961.

c) Conduct on Behalf of Business
For purposes of this Section, when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business shall be chargeable with the conduct.

d) Certification
Every bid submitted to and contract executed by the State shall contain a certification by the contractor that the contractor is not barred from being awarded a contract or subcontract under this Section. [30 ILCS 500/50-5]

Section 500.1210 Felons

Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible for a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business. [30 ILCS 500/50-10]

Section 500.1220 Conflicts of Interest

a) Prohibition
It is unlawful for any person holding an elective office in this State, holding a seat in the General Assembly, or appointed to or employed in any of the offices or agencies of State government and who receives compensation for such employment in excess of 60% of the salary of the Governor of the State of Illinois, or who is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority, or who is the spouse or minor child of any such person to have or acquire any contract, or any direct pecuniary interest in any contract therin, whether for stationery, printing, paper, or any services, materials, or supplies, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois or in any contract of the

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Capital Development Board or the Illinois Toll Highway Authority. [30 ILCS 500/50-13(a)]

b) Interests
It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) is entitled to receive more than 7 1/2% of the total distributable income or an amount in excess of the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein. [30 ILCS 500/50-13(b)]

c) Combined Interests
It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) together with his or her spouse or minor children is entitled to receive more than 15%, in the aggregate, of the total distributable income or an amount in excess of 2 times the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein. [30 ILCS 500/50-13(c)]

d) Securities
Nothing in this Section invalidates the provisions of any bond or other security previously offered or to be offered for sale or sold by or for the State of Illinois. [30 ILCS 500/50-13 (d)]

e) Prior Interests
This Section does not affect the validity of any contract made between the State and an officer or employee of the State or member of the General Assembly, his or her spouse, minor child or any combination of those persons if that contract was in existence before his or her election or employment as an officer, member, or employee. The contract is voidable, however, if it cannot be completed within 365 days after the officer, member, or employee takes office or is employed. [30 ILCS 500/50-13 (e)]

f) Public aid payments
1) This Section does not apply to payments made for a public aid recipient.
2) Teaching. This Section does not apply to a contract for personal services as a teacher or school administrator between a member of the General Assembly or his or her spouse, or a State officer or employee or his or her spouse, and any school district, public community college district, the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governor State University, or Northeastern Illinois University.

3) Ministerial duties. This Section does not apply to a contract for personal services of a wholly ministerial character, including but not limited to services as a laborer, clerk, typist, stenographer, page, bookkeeper, receptionist, or telephone switchboard operator, made by a spouse or minor child of an elective or appointive State officer or employee or of a member of the General Assembly. Child and family services. This Section does not apply to

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payments made to a member of the General Assembly, a State officer or employee, his or her spouse or minor child acting as a foster parent, homemaker, advocate, or volunteer for or behalf of a child or family served by the Department of Children and Family Services.

5) Licensed professionals. Contracts with licensed professionals, provided they are competitively bid or part of a reimbursement program for specific, customary goods and services through the Department of Children and Family Services, the Department of Human Services, the Department of Public Aid, the Department of Public Health, or the Department on Aging. [30 ILCS 500/50-13(f)]

g) An individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise receives a direct financial benefit in conjunction with performance of a contract, including finder's fees and commission payments.

h) Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, that is distributed to those entitled to receive a share of such income. In the case of a for-profit corporation, distributable income means "dividends". When calculating entitlement to distributable income the entitlement shall be determined at the end of the company's most recent fiscal year.

i) Exemptions

If the Procurement Officer finds a conflict of interest under this Section with the vendor selected for award or contract negotiations, the Procurement Officer shall forward to the CPO the name of the vendor and a description of the proposed contract and of the potential conflict, and shall state why an exemption should be granted. The CPO may exempt named individuals from the prohibitions of this Section when, in its judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. [30 ILCS 500/50-20]

Section 500.1230 Negotiations for Future Employment

a) It is unlawful for any person employed in or on a continual contractual relationship with any of the offices or agencies of State government to participate in contract negotiations on behalf of that office or agency with any firm, partnership, association, or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment. [30 ILCS 500/50-15(a)]

b) An individual who performs services pursuant to a contract and who meets the requirements of an "employee" as opposed to an independent contractor is in a "continual contractual relationship" from the effective date of the contract until such time as the contract is terminated.

c) An individual who performs services pursuant to a contract and who

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meets the requirements of an "independent contractor" as opposed to an "employee" as in a "continual contractual relationship", if the contract term is indefinite, is automatically renewed, is renewable at the individual's option, is renewable unless the OAG must act to terminate, or has a definite term of at least three months.

Section 500.1240 Revolving Door Prohibition

The CPO and any employees whose principal duties are directly related to OAG procurement are prohibited for a period of 2 years after terminating an affected position from engaging in any procurement activity relating to the OAG. This prohibition applies to persons who terminate an affected position on or after January 15, 1999. The CPO shall identify in writing those designees whose job, or whose position descriptions, are at least 51% directly related to OAG procurement. Activities directly related to OAG procurement include, but are not limited to; drafting specifications, preparing solicitations, evaluating offers, negotiating contracts, administering contracts and supervising any of the foregoing.

Section 500.1250 Disclosure of Financial Interests and Potential Conflicts of Interest

a) Requirement for Disclosure

1) All offers from responsive bidders or offerors with an annual value of more than \$10,000 shall be accompanied by disclosure of the financial interests of the contractor, bidder, or proposer. The financial disclosure of each successful bidder or offeror shall become part of the publicly available contract or procurement file maintained by the appropriate chief procurement officer. [30 ILCS 500/50-35(a)]

2) Disclosure by the responsive bidders or offerors shall include any ownership or distributive income share that is in excess of 5%, or an amount greater than 60% of the annual salary of the Governor, of the bidding entity or its parent entity, whichever is less, unless the contractor or bidder:

A) is a publicly traded entity subject to Federal 10K reporting, in which case it may submit its 10K disclosure in place of the prescribed disclosure; or

B) is a privately held entity that is exempt from Federal 10K reporting but has more than 40 shareholders, partners or members, in which case it may submit the information that Federal 10K reporting companies are required to report under 17 CFR 29.401 and list the names of any person or entity holding any ownership share that is in excess of 5% in place of the prescribed disclosure.

b) Definitions and General Provisions

1) An "offer from responsive bidders or offerors" means only those offers that are received using an Invitation for Bids or Request

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for proposals under Section 500.310 or 500.320 of this Part. Disclosures are not required in sole source or emergency procurements.

2) A "parent entity" means a person who owns 100% of the bidding entity.

3) "Contractual employment of services" means any contract to provide services to the State, whether as independent contractor or employee, that is by and between the State and the named individual.

4) "Distributable" or "distributive" income means the income of a company after payment of all expenses, including employee salaries and bonuses, and retained earnings, that is distributed to those entitled to receive a share of such income.

5) "Personal services" shall be any contract for services subject to this Part, including, by way of example, professional and artistic services, repair services, cleaning and guard services, but excludes contracts with employees who are exempt from this Part under Section 500.30(a)(1) of this Part.

6) "Competitively bid" means a contract let pursuant to Section 500.310 or 500.320 of this Part.

7) "Subject to federal 10K reporting" means subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934. "10K disclosure" means a report required under Section 13 or 15(d) of the Securities Exchange Act of 1934.

8) Once a disclosure is made in relation to a particular contract, the disclosure need not be repeated if the contract is amended.

9) 10K Disclosures

A) Any vendor subject to federal 10K reporting requirements may submit its 10K to the OAG in satisfaction of this disclosure requirement provided the vendor also identifies the specific sections or parts in the 10K disclosure where the OAG may find information, if any pertaining to those who have an ownership interest or an interest in the other information income of the vendor or its parent, or other information that the vendor knows or reasonably should know identifies a potential conflict of interest with the State. If the financial interest or conflict of interest information requested by the OAG is not in the 10K, but is in a document referenced in the 10K, or in a document that may be submitted to the SEC in conjunction with or in lieu of the 10K, then that additional documentation shall be provided as well.

B) 10K disclosures are available for public review. Any potential conflict of interest identified by the public and brought to the attention of the CPO shall be investigated. C) In circumstances where a vendor may submit a 10K disclosure in lieu of the specific disclosure requirements and for purposes of the Procurement Officer's duty to consider any

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conflict or potential conflict of interest that may exist, but that is not subject to specific disclosure requirements of this Part, and that is not personally known by the Procurement Officer, "publicly known or reasonably available to the public" shall consist of information identified by the vendor in the 10K disclosure and any information disclosed pursuant to public review of the 10K disclosure.

c) Form of disclosure shall be prescribed by the CPO and must include at least the names and addresses of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each person identified in this Section having in addition any of the following relationships:

1) State employment, currently or in the previous 3 years, including contractual employment of services;

2) State employment of spouse, father, mother, son, or daughter, including contractual employment for services in the previous 2 years;

3) Elective status; the holding of elective office of the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years;

4) Relationship to anyone holding elective office currently or in the previous 2 years; spouse, father, mother, son, or daughter;

5) Appointive office; the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of Local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years;

6) Relationship to anyone holding appointive office currently or in the previous 2 years; spouse, father, mother, son, or daughter; registered lobbyist of the State government;

7) Employment, currently or in the previous 3 years, as or by any registered lobbyist to anyone who is or was a registered lobbyist in the previous 2 years; spouse, father, mother, son, or daughter;

8) Relationship to anyone who is or was a registered lobbyist in the previous 2 years; compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections;

10) Relationship to anyone; spouse, father, mother, son, or daughter; who is or was a compensated employee in the last 2 years of any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois,

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or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

d) **Invent of Disclosure**
 The disclosure in subsection (c) is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential conflict to the CPO, procurement officers, their designees, and executive officers so they may adequately discharge their duty to protect the State.

e) **Determination by Procurement Officer**
 In the case of any contract for personal services in excess of \$50,000; any contract competitively bid in excess of \$250,000; any other contract in excess of \$50,000; when a potential for a conflict of interest is identified, discovered, or reasonably suspected it shall be reviewed by the Procurement Officer or his or her designee, who must rule whether to void or allow the contract, bid, offer, or proposal weighing the best interest of the State of Illinois. Any such written determination shall become a publicly available part of the contract bid, or proposal file.

f) **Requirements for Reasonable Care and Diligence**

These thresholds and disclosure do not relieve the CPO, procurement officers, or their designees from reasonable care and diligence for any contract, bid, offer, or proposal. The CPO, procurement officers, or their designees shall be responsible for using any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois.

g) **Indadvertent or Accidental Failure to Fully Disclose**
 Inadvertent or accidental failure to fully disclose shall render the contract, bid, proposal, or relationship voidable by the CPO if he or she deems it in the best interest of the State of Illinois and shall result in debarment from future contracts, bids, proposals, or relationships with the OAG for a period of not less than 2 years and not more than 10 years. Reinstatement after 2 years and before 10 years must be reviewed and commented upon by the CPO, who must rule in writing whether and when to reinstate.

h) **Intentional, Wilful, or Material Failure to Disclose**
 Intentional, wilful, or material failure to disclose shall render the contract, bid, proposal, or relationship voidable by the CPO if he or she deems it in the best interest of the State of Illinois and shall result in debarment from future contracts, bids, proposals, or relationships with the OAG for a period of not less than 2 years and before 10 years.

i) **Other Procurements**
 In addition, all disclosures shall note any other current or pending contracts, proposals, leases, or other ongoing procurement relationships the bidding, proposing, or offering entity has with any other unit of State government and shall clearly identify the unit and the contract, proposal, lease, or other relationship. (30 ILCS 500/50-40)

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500/50-35(h)]

Section 500.1260 Reporting Anticompetitive Practices

When, for any reason, any vendor, bidder, contractor, chief procurement officer, State purchasing officer, designee, elected official, or State employee suspects collusion or other anticompetitive practice among any bidders, offerors, contractors, proposers, or employees of the State, a notice of the relevant facts shall be transmitted to the Attorney General and the chief procurement officer. [30 ILCS 500/50-40]

Section 500.1270 Confidentiality

Any chief procurement officer, State purchasing officer, designee, or executive officer who willfully uses or allows the use of specifications, competitive bid documents, proprietary competitive information, proposals, contracts, or selection information to compromise the fairness or integrity of the procurement, bidding, or contract process shall be subject to immediate dismissal [30 ILCS 500/50-45]. Any violation of this section may result in immediate dismissal, regardless of personnel rules, any contract, law or other agreement, or other agreement, and may, in addition, be subject to criminal prosecution.

Section 500.1280 Insider Information

It is unlawful for any current or former elected or appointed State official or State employee to knowingly use confidential information available only by virtue of that office or employment for actual or anticipated gain for themselves or another person. [30 ILCS 500/50-50] Any violation of this section may result in immediate dismissal, regardless of personnel rules, any contract, law or other agreement.

Section 500.1290 Other Violations

Any OAG employee who willfully violates or allows the violation of this Part is subject to immediate dismissal, regardless of personnel rules, any contract, law or other agreement.

SUBPART N: PROTESTS AND REMEDIES

Section 500.1300 Suspension

a) **Application**
 This Section applies to all debarments or suspensions of vendors from consideration for award of contracts.

b) **CPO** may suspend a vendor doing business with the OAG, or for specific types of supplies or services. A suspension may be issued upon a showing the vendor violated any law governing the procurement transaction or this Part, or failed to conform to specifications or

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c) terms of delivery when the CPO finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor. Offers will not be solicited from the suspended vendor, and, if received, will not be considered during the period of suspension.

d) A vendor may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, the suspension would not become effective until the evaluation of the objection is completed.

e) The CPO may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the OAG. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Offers received from the debarred vendor will not be considered.

f) The CPO shall maintain a master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

Section 500.1310 Resolution of Contract Controversies

a) Authority to Settle or Resolve Controversies
The CPO or Procurement Officer who established the contract shall have authority to settle and resolve controversies but the Auditor General may set limits on such authority.

b) Authority of OAG
The OAG has the authority to accept delivery of supplies or services in accordance with contract requirements as satisfactory adjustment of a complaint.

c) Substitution of Terms/Price Reduction
If the vendor proposes to make an adjustment by:

- 1) substituting an alternative specification; or
- 2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract, such proposal must be referred to and approved by the Procurement Officer.

d) Cancellation for Breach of Contract
In any of the following cases the CPO or Procurement Officer shall have the right to terminate or rescind any contract entered into under this Part:

- 1) the successful offeror fails to furnish a satisfactory performance bond within the time specified;

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2) the vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the OAG;

3) any supplies or services provided under the contract are rejected (for example, not meeting specifications, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's supplies or services, this shall be grounds for termination or rescission, even though the vendor offers to replace the supplies or services promptly;

4) the vendor is guilty of misrepresentation (for example, misbranding) in connection with another contract for the sale of supplies or services to the state such that the vendor cannot reasonably be depended upon to fulfill its obligations as a responsible vendor under any of its contracts with the OAG;

5) the vendor:

- A) is adjudged bankrupt or enters into receivership or makes a general assignment for the benefit of its creditors due to insolvency; or
- B) disregards laws, rules or instructions of a contracting officer; or
- C) acts in violation of any provision of the contract or this Part;

6) the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States; or

7) any other breach of contract or other unlawful act by the vendor.

e) Cancellation for Fraud, Collusion, Illegality Etc.
The OAG may cancel any contract it established if there is sufficient evidence to show that:

- 1) the contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or
- 2) the contract conflicts with any statutory provision of the State of Illinois or of the United States.

f) Withholding Money to Compensate State for Damages
If a contract is terminated or rescinded under this Section, the State may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on the vendor's part on which the cancellation is based.

g) Damages
The damages for which the State may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:

- 1) the additional cost of supplies or services bought elsewhere;
- 2) cost of repeating the procurement procedure;
- 3) any expenses incurred because of delay in receipt of supplies or services; and
- 4) any other damages caused by the vendor's breach of contract or

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unlawful act.

Section 500.1320 Violation of Law or Rule

- a) Determination that Solicitation or Award Violates Law
 - If the CPO finds that the solicitation or proposed award is in violation of statute or rule, the CPO may cancel the solicitation or proposed award, or make modifications to correct the violation, if such correction may be legally accomplished.
 - b) Determination that Contract Violates this Part
 - If any contract is entered into or purchase or expenditure of funds is made in violation of this Part or any other law, the contract may be declared void by the CPO or may be ratified and affirmed, provided the CPO determines that ratification is in the best interests of the OAG. If the contract is ratified and affirmed, it shall be without prejudice to the State's rights to any appropriate damages.
 - c) Effect of Declaring a Contract Null and Void
 - In all cases in which a contract is voided, the OAG shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

Section 500.1330 Protests

- a) Protest Resolution by the Procurement Officer
 - An actual or prospective bidder, offeror, or vendor that may be aggrieved in connection with a procurement may file a protest on any phase of solicitation or award, including but not limited to specifications preparation, bid solicitation, or award.
 - b) Complaints to the Procurement Officer
 - Complainants should seek resolution of their complaints initially with the Procurement Officer conducting the solicitation. Such complaints may be made verbally or in writing.
 - c) Filing of Protest
 - 1) Protests shall be made in writing to the CPO, and shall be filed within 7 calendar days after the protester knows or should have known of the facts giving rise to the protest. A protest is considered filed when physically received by the CPO. Protests filed after the 7 calendar day period shall not be considered.
 - In regard to a protest regarding specifications, the protest must be received within 7 calendar days after the date the solicitation was issued, and in any event must be received by the CPO at the designated address before the date for opening of offers.
 - 2) "No expedite handling of protests," The envelope should be labeled "protest." The written protest shall include at a minimum the following:
 - A) the name and address of the protester;

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- B) appropriate identification of the procurement and, if a contract has been awarded, its number;
- C) a statement of reasons for the protest; and
- D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.
- e) Requested Information; Time for Filing
 - When a protest has been timely filed and before an award has been made, the Procurement Officer shall make no award of the contract until the protest has been resolved. If timely received but after award, the award shall be revoked without penalty and no award made until the protest has been resolved. In either case the CPO may make the award or reinstate the award upon a determination that the needs of the State require an immediate award and performance under the contract.
- f) Decision by the CPO
 - A decision on a protest shall be made by the CPO as expeditiously as possible after receiving all relevant, requested information. If a protest is sustained, the available remedies include, but are not limited to, reversal of award and cancellation or revision of the solicitation.
- g) Effect of Judicial or Administrative Proceedings
 - If an action concerning the protest has commenced in court, the CPO shall not act on the protest, but shall refer the protest to the Attorney General. This subsection shall not apply when a court requests, expects, or otherwise expresses interest in the decision of the CPO.

SUBPART O: GOVERNMENTAL JOINT PURCHASING

Section 500.1400 General

In an effort to make the procurement process more efficient, State and other governmental units (including not-for-profit entities authorized by law to participate in joint purchasing) may agree to utilize each others' procurement contracts. This authority is governed by this Subpart and the Governmental Joint Purchasing Act [30 ILCS 525].

Section 500.1410 No Agency Relationship

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In any joint procurement situation, the governmental unit must issue its own purchase order, accept its own deliveries and make its own payments. The State of Illinois shall not have any obligation to the vendor for payment of orders placed by other governmental units.

SUBPART P: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section 500.1500 Severability

If any provision of this Part or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Part that can be given effect without such invalid provision or application.

Section 500.1510 Finality of Determinations

Determinations made by the OAG under this Part are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

Section 500.1520 Government Furnished Property

If the OAG provides any property to the vendor in furtherance of the contract, such property shall remain the property of the State but may be consumed by the vendor if necessary to complete the contract. Vendor will issue a receipt for the property and will be responsible for its safekeeping and return of unused property to the State.

Section 500.1530 Inspections

a) Inspection of Plant or Site
The OAG may enter a vendor's or subcontractor's plant or place of business to:

- 1) inspect supplies or services for acceptance by the State pursuant to the terms of a contract;
- 2) audit the books and records of any vendor or subcontractor pursuant to Section 500.1540 (Records and Audits) of this Part;
- 3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to this Part;
- 4) determine whether the standards of responsibility have been met or are capable of being met;
- 5) determine if the contract is being performed in accordance with its terms; and
- 6) accomplish any other purpose permitted by law.

b) Inspection and Testing of Supplies and Services

- 1) Solicitation and Contractual Provisions. OAG contracts may provide that the OAG may inspect supplies and services at the vendor's or subcontractor's facility and perform tests to determine whether the supplies or services conform to solicitation requirements, or, after award, to contract

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requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.

- 2) Procedures for Trial Use and Testing. The Procurement Officer may establish operational procedures governing the testing and trial use of equipment, material, and other supplies, and the application of resulting information and data to specifications or procurements.

- c) Conduct of Inspections
 - 1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the vendor or subcontractor. No inspector other than the Procurement Officer may change any provision of the specifications or the contract without written authorization of the Procurement Officer. The presence or absence of an inspector shall not relieve the vendor or subcontractor from any requirements of the contract.
 - 2) Location. When an inspection is made in the plant or place of business of a vendor or subcontractor, such vendor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.
- 3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any vendor or subcontractor shall be performed at reasonable times.

Section 500.1540 Records and Audits

a) Retention of Books and Records
Books and records that relate to performance of a State contract, including subcontracts, and that support amounts charged to the State, shall be maintained.

- 1) by a vendor, for three years from the date of final payment under the prime contract;
- 2) by a subcontractor, for at least three years from the date of final payment under the subcontract; and
- 3) by a vendor and subcontractor for such longer period of time as is necessary to complete ongoing or announced audits.

Contract Audit

- 1) Types of Contracts Audited. The type of contract under which books and records should be audited is that in which price is based on costs or is subject to adjustment based on costs, or that in which auditing would be appropriate to assure satisfactory performance, such as a time and material contract.
- 2) Situations in which an audit may be warranted include but are not limited to when a question arises in connection with:
 - A) the financial condition, integrity, and reliability of the vendor or subcontractor;
 - B) any prior audit experience;

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- C) the adequacy of the vendor's or subcontractor's accounting system;
- D) the number or nature of invoices or reimbursement vouchers submitted by the vendor or subcontractor for payment;
- E) the use of federal assistance funds;
- F) the fluctuation of market prices affecting the contract; or
- G) any other situation when the Procurement Officer finds that such an audit is necessary for the protection of the State's best interest.

Section 500.1550 No Waiver of Sovereign Immunity

Nothing in this Part shall be deemed to be a waiver of sovereign immunity.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Reimbursement to Counties
- 2) Code Citation: 89 Ill. Adm. Code 361
- 3) Section Numbers: 361.4
Proposed Action:
Amend
- 4) Statutory Authority: 20 IICs 505; 705 IICs 405/5-740
- 5) A Complete Description of the Subjects and Issues Involved: The Department is deleting all references to the use of race or culture in determining a child's placement. This is being done to conform to the provisions of the Federal Interethnic Placement Act which forbids consideration of race, ethnicity, national background, or culture as factors in selecting a placement for a child. In addition, the Department changed the language regarding religious preference and relative home placement.
- 6) Will these proposed rules replace any emergency rule currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed rules contain incorporations by reference? No
- 9) Are there any proposed amendments to this part pending? No
- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 IICs 805/3].
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Susan Howell
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498
(217) 524-1983
TDD: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: due to an oversight the Department did not include this amendment on its last regulatory agenda.

The full text of the proposed amendment appears on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER C: FISCAL ADMINISTRATION

PART 361

REIMBURSEMENT TO COUNTIES

Section 361.1 Purpose
361.2 Definitions
361.3 Reimbursement for Shelter Care
361.4 Rules for Placement Under Section 5-740 5-7 of the Juvenile Court Act of 1987
361.5 County Certification that Child Care Facilities Not Licensed by the Department Meet Licensing Standards
361.6 Reimbursement Rate
361.7 Reimbursement Process
361.8 Payment Review

AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 5/5]; Sections 2-3, 2-4 and 5-7 of the Juvenile Court Act of 1987 [705 ILCS 405/2-3, 2-4, 5-1]; Section 3-15-2 of the Unified Code of Corrections [730 ILCS 5/3-15-2]; Section 1 of the County Shalter Care and Detention Home Act [55 ILCS 75/1]; and Section 471 of the Social Security Act (42 USC 671).

SOURCE: Adopted and codified at 5 Ill. Reg. 13174, effective November 30, 1981; amended at 8 Ill. Reg. 12555, effective August 15, 1984; amended at 24 Ill. Reg. _____, effective _____.

Section 361.4 Rules for Placement Under Section 5-740 5-7 of the Juvenile Court Act of 1987

a) Agencies and probation officers may place minors under Section 5-740 5-7 of the Juvenile Court Act of 1987 only when such minors are:

- 1) placed in the least restrictive setting which most closely approximates a family and in which the child's needs may be met;
- 2) placed within reasonable proximity to their homes, taking into account any special needs of the child and family and the availability of the service resources needed for the child and family; and

3) placed with-a-family-of-the-same-race-as-the-child--whenever-possible-and-3) placed, if possible, in a home that agrees to meet the religious preference of the parents and/or child; if they have expressed a preference one-most-closely approximates-the-religious--ethnic-and-cultural-background-of-the-biological-family; and

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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415) placed in the home of a relative when the relative can safely meet the needs of the child—the child's family—with—the—one
and—when—the-child-can-benefit-from-the-relationship-between-the
parent(s)—the-relative-and-the-child and
516) placed, if a child of American Indian heritage, according to
Department of Children and Family Services Rules concerning
Indian Child Welfare Services Part 307; and
617) placed in child care facilities licensed by the Department under
the Child Care Act of 1968 (225 ILCS 101/1) thru—Rev—State—1997
ch—237—part—221—it—seg— or approved by the Department for
placement in a relative home that complies with the requirements
of 89 Ill. Adm. Code 301 (Placement and Visitation Services).
meeting-the-standards—specified—for
through—ratemaking—Part—337—Approval—of—Relative—Home

4047—Bicentennial Standards for Child Care Institutions—and Part II

(Source: Amended at 24

COMMUNICATING ON INFORMATICS

Practice and Procedure

2) Code Citation: 26 Ill. Adm. Code 125

3) Sections Numbers:
125.40
125.100
125.262
125.320
125.350
125.360
125.420

Proposed Action:
Amendment
Amendment
Amendment
Amendment
Amendment
Amendment

4) Statutory Authority: Implements Sections 1A-8(A), 9-10, 9-15(3), 9-21 and 9-23 of the Election Code [10 ILCS 5/1A-8(A), 9-10, 9-15(3), 9-21 and 9-23]

5) A Complete Description of the Subjects and Issues Involved:

125.40 – Corrects Statutory Citation.

125.100 – Measures the time to file a request for disqualification of Hearing Officer from the time the order of appointment is received.

125.262 – Allows the Board to make a final disposition of a case without public hearing if the respondent committee acknowledges responsibility and corrects its actions.

125.320 – Allows the Board to make a final disposition of a case without public hearing if the respondent committee acknowledges responsibility and corrects its actions.

125.350 – Allows the Hearing Examiner to request issuances of subpoenas *sua sponte*.

125.360 – Allows the General Counsel to issue subpoenas upon the *sua sponte* request of the Hearing Examiner. Fixes the fees for witnesses at the same rate as per subpoenas in civil matters in the Circuit Court.

125.420 – Changes statutory references. Raises the maximum civil penalty to the amount authorized by statute. Removes the limitation of 12 month compliance from Final Orders under Section 9-10 of the Election Code. Deletes the requirement that final orders must instruct the General Counsel to seek civil enforcement of the penalty.

6) Will this proposed rule replace an emergency rule currently in effect?
No

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7) Does the rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments neither create nor expand a State mandate upon local governments.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to:

State Board of Elections
 A. T. Zimmer, General Counsel
 James R. Thompson Center
 100 West Randolph Street
 Suite 14-100
 Chicago IL 60601
 (312) 814-6477

or at a Public Hearing to be held October 18, 1999 at the State Board of Elections principal office located at 1030 South Spring Street, Springfield, Illinois and November 15, 1999 at the James R. Thompson Center, 100 W. Randolph Street, Chicago, Illinois. Please contact the Board's offices for verification of hearing time, conference room and date.

12) Initial Regulatory Flexibility Analysis:

A) Types of Small businesses, small municipalities and not for profit corporation affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the amendments proposed were determined to be necessary or desirable based upon 8 months experience operating under P.A. 90-73.

The full text of the Proposed Amendments begins on the next page:

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

TITLE 26: ELECTIONS
 CHAPTER I: STATE BOARD OF ELECTIONS

PART 125
 PRACTICE AND PROCEDURE

SUBPART A: DEFINITION AND GENERAL PROVISIONS

Section	Application
125.5	Definitions
125.15	Board Offices and Business Hours
125.20	Documents Pertaining to Hearings
125.30	Form of Documents
125.40	Service of Documents
125.50	Computation of Time
125.55	Name of Notices
125.60	Appearances
125.70	Non-Legal Assistance
125.75	Parties
125.80	Answer
125.90	Qualifications of Hearing Examiner
125.95	Authority of Hearing Examiner
125.100	Disqualification of Hearing Examiner
125.110	Motions
125.115	Consolidation and Severance of Claims; Additional Parties
125.115	Amendments
125.120	Intervention
125.130	Pre-hearing Conferences
125.135	Settlement Pursuant to Conference
125.140	Record of Conferences
125.150	Continuances
125.160	Order of Proceedings
125.170	Failure of Party to Appear
125.175	Evidence
125.180	Official Notice
125.190	Examination of Adverse Party or Agent
125.192	Participation by Board Members and Staff
125.195	Hostile Witnesses
125.197	Admission of Business Records in Evidence
125.199	Compelling Appearance at Hearing

SUBPART B: CLOSED PRELIMINARY HEARINGS

Section	Application
125.210	Commencement of Proceeding
125.220	Form of Complaint
125.230	

STATE BOARD OF ELECTIONS

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in person upon the party or his attorney or designated representative, or deposited for mailing with the United States Postal Service, postage prepaid, registered or certified, addressed to the party at his last known address.

(Source: Amended at 24 Ill. Reg. _____)

Section 125.100 Disqualification of Hearing Examiner

Any party to a hearing may file a timely written request for disqualification of a Hearing Examiner, setting forth the nature of the personal bias, prejudice, or other disqualification of a presiding Hearing Examiner, and such Hearing Examiner shall be thereupon disqualified. When a Hearing Examiner is disqualified, or it becomes impractical for him to continue, another presiding Hearing Examiner shall be appointed in the manner provided for initial appointment, unless it is further shown that substantial bias or prejudice will result from the appointment. A Hearing Examiner may at any time voluntarily disqualify himself. A request for disqualification shall be considered timely if made within three (3) days after receipt of the notice of the appointment of the Hearing Examiner by the party requesting the disqualification and at least twenty-four (24) hours prior to the commencement of the hearing or pre-hearing conference by the Hearing Examiner; provided, however, that in the case of a complaint filed within sixty (60) days preceding the date of an election in reference to which the complainant is filed, such request shall be considered timely only if verbal notice of the request is given to the General Counsel within eight (8) hours after the requesting party has received telegraphic or telephonic notice of the appointment of the Hearing Examiner.

(Source: Amended at 24 Ill. Reg. _____)

SUBPART B: CLOSED PRELIMINARY HEARINGS

Section 125.262 Board Determination

- a) After the submission of the recommendations of the Examiner, the Board, and the recommendations of the General Counsel, if any, the Board shall determine whether the complaint was filed on justifiable grounds. If the Board determines that the complaint was filed on justifiable grounds, and if the respondent is unwilling to take such action as is necessary to correct the violation or refrain from the conduct giving rise to the violation, it shall order a public hearing to be conducted in accordance with the provisions of Subpart C of this Part.
- b) The Board may consider and discuss the Examiner's recommendation through a conference telephone call begin in open session, and continued in executive session in lieu of an in-person meeting, and such consideration and discussion shall be deemed part of the closed

STATE BOARD OF ELECTIONS

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preliminary hearing process. Any action on the Examiner's report recommendations must be taken in open session, or if taken as part of the telephonic conference call, that portion of the conference call shall be broadcast over a speaker phone or other similar device at both the permanent and branch offices of the Board and that portion of the broadcast call be open to the media and public.

(Source: Amended at 24 Ill. Reg. _____)

SUBPART C: PUBLIC ADJUDICATIVE HEARINGS

Section 125.320 Initiation of Hearing

- a) Hearings conducted pursuant to Subpart C shall be initiated once the Board has determined that a complaint alleging a violation of the Act has been filed upon justifiable grounds and further determines that such is necessary under the provision of Section 125.262(a) of this Part.
- b) Hearings may also be initiated by the Board when, in the exercise of its discretion, it determines there are reasonable grounds to believe that a violation of any other election law may have occurred.
- c) The Board may determine that any adjudicative hearing shall be held before the Board. In the absence of such determination by the Board, the hearing shall be conducted by a Hearing Examiner.
- d) Any hearing before the Board shall be conducted in the same manner as provided for the calling and conduct of hearings by a Hearing Examiner, except that after the conclusion of such hearing the Board shall issue its final order without the necessity of written comment by the General Counsel.

(Source: Amended at 24 Ill. Reg. _____)

Section 125.350 Discovery Procedures

- a) Discovery procedures may be ordered by the Hearing Examiner upon the written request of any party, or upon his own motion, where necessary to expedite the proceedings, to insure a clear and concise record, to insure a fair opportunity to prepare for the hearing, or to avoid surprise at the hearing, and where the allowance of such discovery procedures will not interfere with or impair the time requirements applicable to the proceeding. Discovery may consist of the following:
 - 1) production of documents or things;
 - 2) depositions;
 - 3) written interrogatories; and
 - 4) requests for admissions of fact.
- b) The Hearing Examiner may restrict or deny such discovery where

STATE BOARD OF ELECTIONS

NOTICE OF DENIED APPEAL

necessary to prevent undue delay or harassment.

1) The Hearing Examiner shall order the following discovery upon written notice of any party:

- 1) list of witnesses who are known to the party, and who have knowledge of relevant facts;
- 2) a list of any expert witnesses who may be called at the hearing, which shall be submitted to all parties prior to the hearing.

Any person, including a party, who is deposed, interrogated or required to submit documents or things under this Part may be examined regarding any matter, not privileged, which is relevant to the subject matter of the pending case, or which may lead to the discovery of such relevant information.

Except as otherwise provided, all depositions and written interrogatories taken pursuant to this Section shall be for purposes of discovery only. Such depositions and interrogatories may be used for purposes of impeachment, as admissions, or as any affidavit could be used. Upon application to the Hearing Examiner either before or after the taking of such deposition or the filing of written interrogatories and upon a showing that at the time of the hearing the party deposed or interrogated will not be available due to death, age, sickness, infirmity, absence from the country or other exceptional circumstances, the Hearing Examiner may grant a continuance.

interrogatories be used as evidence in the hearing.) Upon transcription of a deposition, it shall be made available to the deponent for examination unless his signature is waived at the deposition. Any changes in form or substance which the deponent desires to make shall be entered upon the deposition by the officer taking the same with a statement upon the reasons given by the deponent making them. The deposition shall be signed by the deponent unless he is ill or cannot be found or refuses to sign, in which event the officer's certificate shall state the reason for the omission of

Source: Amended at 24 Ill. Reg. _____, effective _____,

Subpoenas

- 1) Upon application to the Hearing Examiner by any party, or upon the request of the Hearing Examiner, the General Counsel may issue a subpoena in the name of the Board for attendance at a deposition or hearing, which may include a command to produce books, papers, documents or tangible things designated therein and reasonably necessary to resolution of the matter under consideration, subject to the limitations on discovery prescribed by Section 125, 350. The Hearing Examiner, upon motion, and in any event at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable or oppressive.
- 1) within 36 hours of the Hearing Examiner's Report if the complaint was filed within 60 days prior to an election and related to a complaint election, or
2) within 60 days in all other instances.
- A) Oral argument before the Board prior to issuance of a final order or approval of a written stipulation, agreed settlement or consent order shall be permitted at the Board's discretion, if the Board determines supplemental testimony will provide heretofore undiscovered relevant testimony.
- B) The Board may consider, discuss and take final action on any final order, written stipulation, agreed settlement or

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b) Every subpoena shall state the title of the action and shall command each person to whom it is directed:

- 1) to attend and give testimony at the time and place therein specified, and/or
- 2) to produce books, papers, documents or tangible things designated therein at the time and place therein specified.

c) A subpoena duces tecum may be limited to the production of documents and not require personal attendance of the person to whom it is directed.

d) The party requesting the issuance of a subpoena shall tender therewith a check reimbursing the witness for the round trip cost of travel between the witness's place of residence and the place where his/her deposition will be taken.

presence is requested. Reimbursement shall be equal to that provided by statute for civil costs in the Circuit Court of Illinois. ~~plus~~
~~computed-on-the-basis-of-the-lesser-of~~

2+) the-actual-cost-incurred-for-airplane-or-train-travel---whichever-mode(s)-of-transportation-is-used-by-the-witness;

(Source: Amended at 24 Ill. Reg. _____ effective _____)

SUBPART D: FINAL ORDERS

Section 125.420 Order of the Board; Civil Penalties

a) In addition to any complaint disposed of by written stipulation agreed settlement or consent order pursuant to Section 9-21 of the

9-24, the Board shall review the reports submitted by the Hearing Examiner and the General Counsel, and any objections, briefs or other documents filed in the case.

Source: Amended at

hearing was extended by stipulation or order of the Hearing Examiner pursuant to Section 15-160, then the Board decision shall be issued:

- 1) within 60 hours of the Hearing Examiner's report if the complaint was filed within 60 days prior to an election and related to such election, or
- 2) within 60 days in all other instances.

A) Oral argument before the Board prior to issuance of a final order or approval of a written stipulation, agreement, settlement or consent order shall be permitted at the Board's discretion, if the Board determines supplemental testimony will provide heretofore undiscovered relevant testimony.

B) The Board may consider, discuss and take final action on a final order, written stipulation, agreed settlement or

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consent order through a conference telephone call in lieu of an in-person meeting. Notice shall be given to the media in advance of such conference call. The call shall be broadcast over speaker phone or other similar device at both the permanent and branch offices of the Board and such broadcast shall be open to the media and public. The entire conference shall also be recorded by a certified court reporter.

- b) Whenever the Board determines a person to be in violation of any provision of the Act or any regulation adopted thereunder, the final order, written stipulation, agreed settlement or consent order shall direct that person to cease or correct such violation or otherwise comply with the Act or regulation within fifteen (15) business days, specifically, but not within less than fifteen (15) business days.
- c) The Board shall also notify the person, as part of its final order, written stipulation, agreed settlement or consent order that it shall impose a civil penalty, not to exceed \$2,000.00, on any person who fails or refuses to comply with such final order, written stipulation, agreed settlement or consent order within the time specified by the Board. The procedure for assessment and the amount of civil penalties shall be as set out in Section 125.425 of this Part.
- d)

1) Any final order, written stipulation, agreed settlement or consent order issued shall include a provision, referred to as a "Standing Order" provision, requiring that all subsequent reports, statements or filings required by the Act, during the period the standing order provision is in effect, must be made within the time limits set forth in the Act, and that any failure or refusal to comply with such filing deadlines shall result in the imposition of civil penalties by the Board in an amount not to exceed \$2,000.00.

2) Any such "Standing Order" shall remain in effect for a period of 12 months from the date of the final order, stipulation or agreed order. This "Standing Order" provision shall not apply to final orders rendered for delinquent filings under Section 9-10 of the Election Code.

Wherever an order imposes a civil penalty—the order shall direct—the General Counsel to petition the appropriate Circuit Court for an order to enforce—collection—of—the penalty pursuant to the provisions of Section 9-3-3 of the Election Code.

e) In addition to, or in lieu of, the imposition of a civil penalty, the Board's order may also direct that violations of the Act, any rule adopted thereunder, or any order issued by the Board, be reported to the Attorney General and the appropriate State's Attorney whenever there appears to be any evidence to suggest that there has been a willful failure to file or willful filing of false or incomplete information required by the Act and such willful failure to file or willful filing of false and incomplete information may possibly

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constitute a criminal violation of the Act pursuant to Section 9-26 of the Act.

f) The Board's order imposing a civil penalty shall become effective immediately upon execution of the final order or as otherwise specified in the order, the Election Code or other rule of the Board.

g) All parties to the proceeding shall be notified promptly of any and all orders and exact copies of such order shall be personally delivered or mailed by certified or registered mail to each attorney of record.

(Source: Amended at 24 Illl. Reg. _____, effective _____)

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: The Campaign Financing Act

2) Code Citation: 26 Ill. Adm. Code 100

3) Sections Numbers: Proposed Action:

100.10 Amendment

100.20 Amendment

100.40 Amendment

100.50 Amendment

100.60 Amendment

100.70 Amendment

100.80 Amendment

100.90 Amendment

100.100 Repeal

Amendment

4) Statutory Authority: Implements Sections 9-1.4, 9-1.5 and 9-1.12 of the Election Code [10 ILCS 5/9-1.4, 9-1.5, 9-1.12]

5) A Complete Description of the Subjects and Issues Involved:

100.10 Corrects misspells in subsections (a) and (d), changes "certified" to "statement" in (b). Adds a definition of "signature."

100.20 Adds a citation to the Election Code to (a).

100.40 Adds a citation to the Election Code in the reference line.

100.50 Raises the threshold amount to \$3,000 in accord with P.A. 90-37.

100.60 Corrects missprint in subsection (c).

100.70 Adds citations to the Election Code in subsections (a) and (b).

100.80 Adds citations to the Election Code in subsection (a).

100.90 Raises the threshold amount to \$3,000 in accord with P.A. 90-37.

100.100 Repeals the requirement for identification.

100.110 Adds citation to the Election Code in subsections (a) and (b). Extends the period during which a committee may be designated a successor committee to 24 months. Adopts statutory references in subsection (d).

STATE BOARD OF ELECTIONS

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6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does the rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments neither create nor expand a State mandate for units of local government.

11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to the:

State Board of Elections
A. L. Zimmer, General Counsel
James R. Thompson Center
100 West Randolph Street
Suite 14-100
Chicago, IL 60601
312/811-6477

or at a Public Hearing to be held October 18, 1999 at the State Board of Elections Principal Office located at 1020 South Spring Street, Springfield, Illinois and November 15, 1999 at the James R. Thompson Center, 100 W. Randolph Street, Chicago, Illinois. Please contact the Board's offices for verification of hearing time, conference room and date.

12) Initial Regulatory Flexibility Analysis:

A) Types of Small businesses, small municipalities and not for profit corporation affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the amendments proposed were determined to be necessary or desirable based upon 8 months experience operating under P.A. 90-737.

The full text of the proposed Amendments begins on the next page:

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 100

THE CAMPAIGN FINANCING ACT

Section	Definitions
100.10	Official Forms
100.20	Forwarding of Documents (Repealed)
100.30	Vacancies in Office - Custody of Records
100.40	Multiple Filings by State and Local Committees
100.50	Filing Option for a Federal Political Committee
100.60	Reports of Contributions and Expenditures
100.70	Report Forms
100.80	Provision Circumvention
100.90	Proof of Identification; Application for Inspection and Copying
100.100	<u>(Repealed)</u>
100.110	Loans by One Political Committee to Another
100.120	Receipt of Campaign Contributions
100.130	Reporting by Certain Not-for-Profit Organizations
100.140	Prohibited Contributions
100.150	Electronic Filing of Reports
100.160	Good Faith
100.170	Sponsoring Entity

AUTHORITY: Implementing Article 9 of the Election Code [10 ILCS 5/Art. 9] and authorized by Section 9-15(3) of the Election Code [10 ILCS 5/9-15(3)].

SOURCE: Amended at 5 Ill. Reg. 1337, effective January 30, 1981; amended at 5 Ill. Reg. 1211, effective October 26, 1981; codified at 6 Ill. Reg. 7211; amended at 7 Ill. Reg. 225, effective December 16, 1982; amended at 14 Ill. Reg. 102424, effective June 22, 1990; amended at 16 Ill. Reg. 6982, effective April 21, 1992; amended at 18 Ill. Reg. 14707, effective September 9, 1994; amended at 21 Ill. Reg. 10044, effective July 21, 1997; emergency amendment at 23 Ill. Reg. 679, effective January 4, 1999; for a maximum of 150 days; amended at 23 Ill. Reg. 679, effective May 24, 1999; amended at 24 Ill. Reg. _____, effective _____.

Section 100.10 Definitions

- Anything of Value
 - Reference: This Part interprets or applies Sections 9-1.4, 9-1.5 and 9-1.12 of the Election Code [10 ILCS 5/9-1.4, 9-1.5, 9-1.12] and Section 9-122, 9-124, 9-125 and 9-126 of the Election Code [10 ILCS 5/9-1.22, 9-1.24, 9-1.25, 9-1.26]
 - The term "anything of value", as used in Sections 9-14-9-15, 9-1.4, 9-1.5 and 9-1.12 of the Act, includes all things, services

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or goods regardless of whether they may be valued in monetary terms according to ascertainable market value.

- "Anything of value" which does not have an ascertainable market value may be reported by describing the thing, services or goods contributed, however nothing in this subsection (a)(3) relieves a committee or a contributor of the duty to provide as accurate an assessment of value as possible.
- For purposes of reporting campaign receipts and expenses, income from investments shall be included as receipts during the reporting period they are actually received. The gross purchase price of each investment shall be reported as an expenditure at time of purchase. Net proceeds from the sale of an investment shall be reported as a receipt. During the period investments are held they shall be identified by name and quantity of security or instrument on each semi-annual report during the period. The value of each instrument as of the day the reporting period closes shall be included for each asset held as an investment.
- In addition to the items expressly excluded in the Act, the term "anything of value" shall not be deemed to include:
 - Any unreimbursed payments for travel or living expenses related to travel made by an individual who volunteers services on behalf of a candidate or political committee;
 - Any news story, commentary, endorsement or editorial of any broadcasting station, newspaper, magazine or other periodical publication;
 - Any regular publication by a membership organization, labor union or corporation to its officers, employees, members or stockholders, so long as the membership organization or corporation is not organized primarily for the purpose of influencing nomination for election, or election, of any candidate, or supporting or opposing any question or questions of public policy. However, publications of an extraordinary or special nature to support or oppose a candidate or candidates or a question or questions of public policy would constitute a campaign contribution or expenditure;
 - The occasional use of real property for the purpose of conveying information to officers, employees, members or stockholders and their families of a person or whoever as defined in Section 9-1.6 of the Illinois Campaign Financing Act and as defined in Section 100.10(b) of these Rules and Regulations, including but not limited to the use of such premises for the purpose of a candidate communicating directly with such officers, employees, members or stockholders and their families;
 - Unrealized appreciation or loss of value of investments during the period they are held.

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b) Assets
 1) Reference: This definition of asset interprets or applies to Section 9-5 of the Election Code.
 2) An asset is an item of property, other than cash or services, of whatever kind, tangible or intangible, that has either a fair market or salvage value in excess of \$150.

c) Candidate
 1) Reference: This Part interprets or applies Section 9-1.3 of the Election Code.
 2) "Candidate" as that term is defined in Section 9-1.3 of the Act shall include, but not by way of limitation:
 A) A person who circulates or authorizes the circulation of nominating petitions on his behalf for public office;
 B) An individual who receives contributions or makes expenditures or gives consent for any other person to receive or make expenditures with a view to bringing about his nomination for election or re-election to any office;
 C) Any judicial incumbent who qualifies for re-election.

d) Filing
 To constitute a "filing" as used in the Act and in these Rules, the Statement, Report or document must be in apparent and substantial conformity with the requirements of the Act. "Apparent and substantial conformity" requires that the filing contain the following:
 1) The signature of the person making the filing;
 2) Completion of all applicable sections of the report; and
 3) Attachment of all appropriate schedules.

Inadvertent error or omission of a de minimis nature in the compilation of report, statement or document shall not be deemed to a "willful failure to file or a willful filing of false or incomplete information" pursuant to Section 9-26 of the Act.

e) Statement of Organization
 1) Reference: This provision interprets Section 9-3 of the Election Code [10 ILCS 5/9-3].
 2) A committee of officer must, in filling out the Form D-1, use the name which appears on his or her birth certificate, baptismal record, voter's registration card, statement of candidacy or nominating petition, or any other name by which the officer is commonly known in the community in which the officer resides. Aliases created for the purpose of filing under Article 9 of the Election Code may not be used.

f) Person or Whoever
 1) Reference: This Part interprets or applies Section 9-1.6 of the Election Code.
 2) The terms "other organizations" and "groups of persons" as defined in Section 9-1.6 of the Act shall include, but not by way or limitation: all for-profit and not-for-profit corporations; labor unions; trade associations or other such groups; religious

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organizations: fraternal societies; luncheon and dinner organizations.

g) Political Committee
 1) Reference: This Part interprets or applies Section 9-1.9 of the Election Code.
 2) A person or whoever as defined in the Illinois Campaign Financing Act, Section 9-1.6 [10 ILCS 5/9-1.6] and as defined in Section 100.10 (b) of this Part does not qualify as a political committee pursuant to the Illinois Campaign Financing Act by simply making a contribution from his or her personal income or profits regardless of the amount of the donations.
 3) If a person or whoever solicits or receives funds for political purposes or acts as a conduit for political funds, he or she would, in fact, become a political committee and have to comply with all provisions of the Illinois Campaign Financing Act.

h) Signature
 1) Reference: This Part interprets or applies to Sections 9-4, 9-12 and 9-14 of the Election Code.
 2) The term "signature" or "signed" as used in Article 9 of the Election Code, and as used in the rules and regulations implementing the Election Code includes electronic signatures attached and made a part of electronic records submitted to the State Board of Elections pursuant to Section 9-28 of the Election Code.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.20 Official Forms

a) Reference: This Section interprets or applies Sections 9-1(a) and 9-15(1) of the Election Code.
 b) Political committees are required to use only the official forms or photographic copies of official forms and appropriate schedules approved by the State Board of Elections when filing any disclosure reports except as otherwise permitted under Section 100.80. Alternative methods of reporting are prohibited unless prior written approval has been received by the political committee from the State Board of Elections. Prior written approval will be given based on the compatibility of alternative methods with the Board's present system.

(Source: Amended at 24 Ill. Reg. _____)

Section 100.40 Vacancies in Office – Custody of Records
 Reference: This Section interprets or applies Sections 9-2, 9-5, 9-7, 9-7.5, 9-10 and 9-15 of the Election Code.

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a) Death or resignation of the treasurer of a committee, the candidate or, if such candidate is unable or unwilling to act, the remaining officers of the committee shall appoint a new treasurer and so amend the Statement of Organization (Form D-1) within 10 days after the date of death of the treasurer. In the event there is no candidate or remaining officers of the committee, the person or persons who succeed to the interests of the committee in its funds shall be responsible for filing all appropriate reports until such time as new officers are chosen or the committee terminates.

b) Removal from Office
In the case of a single candidate related committee whose officers were originally named by the candidate, the candidate shall have the right to remove any and all officers of his committee, provided such removal be done in writing and that the candidate comply with all requirements of the Act in the absence of officers for his candidate related committee. If a candidate removes from office any or all officers of his committee, all records related to the committee shall be maintained by the candidate. If former officers request, he shall allow them access to records and provide reasonable opportunity to make copies.

c) Resignation
If the treasurer and all other officers resign and no new officers are appointed, the former treasurer and officers or, in the case of a candidate related committee, the candidate shall be responsible for terminating the committee. When individual vacates the position of treasurer, he shall verify the accuracy of his or her records to the succeeding treasurer. The succeeding treasurer shall not be held responsible for the veracity or accuracy of the records of the predecessors.

d) Inability to Sign
All reports shall be verified, dated and signed by either the treasurer or the political committee making the statement or the candidate on whose behalf the statement is made. However, should it be impossible for the political committee to obtain the signature of the treasurer or candidate prior to the filing deadline, then another may sign for the treasurer, provided that the treasurer submits a letter within 30 days of the filing indicating that such substituted signature is authorized and the treasurer accepts responsibility as if he had signed. The substituted signature shall read, "treasurer's name, by name of person signing". If the treasurer failed to submit a letter within 30 days, then the report filed shall be considered a nonfiling.

e) All reports, original reports, and other campaign documents required to be kept by a political committee under Article 9 of the Election Code remain the property of the political committee. No chairman, treasurer, or candidate shall have any proprietary or possessory interest in such documents in derogation of the rights of the

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f) If any political committee changes any officers, all records, statements and reports in the possession of the outgoing officers shall be transferred within 10 days following such change to the person or persons newly responsible for the maintenance of those records and/or the filing of reports.

g) If any outgoing officer fails to turn over the records in his or her care to a successor, in accord with this Section, or if any officer attempts to withhold records from other officers of the committee, the committee chairman, the treasurer, or the candidate may file a complaint before the Board requesting a turnover order.

h) A committee which fails to preserve its records and accounts required by Section 9-7 of the Election Code, or by this Part, for the periods required by statute or rule may be required to reconstruct its records and accounts if doing so is necessary to the audit of its records. If a committee is required to reconstruct its records it must pay all of the costs and charges, including bank or accountants fees, for the reconstruction of the records.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.50 Multiple Filings by State and Local Committees

a) Reference: This Part part interprets or applies Sections 9-3 and 9-10 of the Election Code.
b) A political committee that acts as both a state political committee and local political committee shall file each original Statement of Organization, Form D-1, and any other appropriate reports with the State Board of Elections, and shall file a copy of each and any other appropriate reports with the county clerk.
c) Any state committee that elects to support or oppose any local candidate or a question of public policy and exceeds an aggregate amount of \$3000 \$3700 for local candidates or a question of public policy shall file an amended Statement of Organization, Form D-1, indicating that they are now a state and local committee and shall comply with all local filing requirements. In the event the state and local committee ceases to support local candidates, they shall file an amended D-1 indicating that they are now a state political committee and shall submit a letter to the county clerk informing him that they will no longer be active in that county.
d) Any local committee that elects to support or oppose any state candidate or a question of public policy and exceeds an aggregate amount of \$3000 \$3700 for state candidates or \$3000 \$3700 for a question of public policy shall file an amended Statement of Organization, Form D-1, indicating that they are now a state and local committee and shall comply with all state filing requirements. In the event the state and local committee ceases to support state

e) All reports, original reports, and other campaign documents required to be kept by a political committee under Article 9 of the Election Code remain the property of the political committee. No chairman, treasurer, or candidate shall have any proprietary or possessory interest in such documents in derogation of the rights of the

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candidates, they shall file an amended D-1 indicating that they are now a local political committee and shall submit a letter to the State Board of Elections informing them that they will no longer be active statewide.

(Source: Amended at 24 Ill. Reg. _____)

Section 100.60 Filing Option for a Federal Political Committee

- a) Reference: This Section interprets or applies Section 9-15 of the Election Code.
- b) Any "person or whoever" as defined by the Illinois Campaign Financing Act, qualifying as a political committee under such Act, may choose to comply with the provisions of the Illinois Campaign Financing Act by simultaneously filing all Federal Election Commission reports with either the State Board of Elections, County Clerk, or both, as the case may be.
- c) A political committee may choose to file reports pursuant to this regulation, either by amendment or for the first time, by stating on Part 56 of the Statement of Organization (Form D-1) the following, "Campaign financing reports will be filed pursuant to Section 100.60, Campaign Financing Regulations, State Board of Elections."
- d) A political committee filing reports pursuant to this regulation for the first time shall additionally file a copy of its last regular report on file with the Federal Election Commission.
- e) A federal political committee, also qualifying as a state political committee under the Illinois Campaign Financing Act, shall simultaneously file a copy of all Federal Election Commission reports with the State Board of Elections.
- f) A federal political committee also qualifying as a local political committee under the Illinois Campaign Financing Act, shall simultaneously file a copy of all Federal Election Commission reports with the local county clerk and the State Board of Elections.
- g) This regulation shall not authorize any person to receive or expend in Illinois an anonymous contribution on behalf of or in opposition to a candidate covered by the Illinois Campaign Financing Act, or in support of or in opposition to a question of public policy.

(Source: Amended at 24 Ill. Reg. _____)

Section 100.70 Reports of Contributions and Expenditures

- a) Reference: This Section interprets or applies Sections 9-10, 9-13, and 9-14 of the Election Code.
- b) For purposes of determining the amount of contributions of \$500 or more under Section 9-10(b-5) of the Act, all contributions received

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between the last date of the period covered by the last report filed prior to the election and the election from a single person, as defined in Section 9-16, shall be aggregated and treated as one. An expenditure to a payee who is in whole or in part only a consultant or a credit card issuer, must include by way of detail or separate entry the amount of funds passing to each vendor, business entity or person to receive funds from the payment, together with the reason for each such disbursement and the beneficiary of the disbursement. Nothing in this Section shall be construed to impose a reporting obligation on any person not otherwise required to report under Article 9 of the Election Code, or to require the itemization of expenditures not otherwise required to be itemized under Article 9 of the Election Code.

- c) A committee which, having filed a Statement of Non-Participation, makes a subsequent contribution to a candidate who will appear on the ballot at the next election shall file a Pre-Election Report within five days after making the contribution, or if the contribution is made during the five days immediately prior to the election, within 24 hours after making the contribution.
- d) A committee which, having filed a Statement of Non-Participation, makes a subsequent contribution to a candidate who will appear on the ballot at the next election shall file a Pre-Election Report within five days after making the contribution, or if the contribution is made during the five days immediately prior to the election, within 24 hours after making the contribution.

(Source: Amended at 24 Ill. Reg. _____)

Section 100.80 Report Forms

- a) Reference: This Part interprets or applies Sections 9-13, 9-14 and 9-16 of the Election Code. All reports submitted by political committees pursuant to the Act shall either be typed or printed legibly in black ink.
- b) Computer sheets filed in lieu of forms or schedules shall not exceed 8 1/2" x 14". They shall be rejected if not camera ready.
- c) Computer sheets filed in lieu of forms or schedules shall not exceed 8 1/2" x 14". They shall be rejected if not camera ready.

(Source: Amended at 24 Ill. Reg. _____)

Section 100.90 Provision Circumvention

- a) Reference: This Part interprets or applies Section 9-26 of the Election Code.
- b) The State Board of Elections will view any attempt to circumvent the clear intentions of the Act by means of subterfuge as violations of the Act.

c) Examples of such circumvention would be:

- 1) A person or whoever organizes ten separate committees and then directs the treasurers of those committees not to accept or expend more than \$1000.
- 2) A candidate sets up multiple committees for the primary purpose

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of avoiding the itemization requirements of the Act; 3) A person or whoever organizes a committee to elect Joe Doe for State Senator. He then terminates the committee and organizes a new committee called the All Illinois Committee to Elect Joe Doe for State Senator and has as his primary purpose the intent to raise campaign funds in this manner to avoid disclosure of contributors.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.100 Proof of Identification; Application for Inspection and Copying [Repealed]

- a) References--~~this--Section--interprets--or--applies--Section--9-15-1--of--the Election Code--~~
- b) Every person requesting--~~to--examine--a--statement--or--report--must--file--a Request for--Inspection--Form--B-3--either--in--the--Springfield--or--Chicago office--and--must--provide--proof--of--identity--if--the--request--is--made--in Person--Public--Inspection--of--documents--is--available--at--both--offices during--regular--business--hours----Request--for--Inspection--of--Total Political--Committees--must--be--fitted--out--in--person--in--the--Office--of--the appropriate--county--clerk--and--that--Person--must--provide--proof--of identity--~~
- c) Application--to--inspect--and--copy--statements--and--reports--may--be--made--by mail--by--submitting--a--Request--for--Inspection--form--accompanied--by--a signature--of--the--applicant--verified--in--a--form--acceptable--under--Section 1-109--of--the--Code--of--Civil--Procedure--Title--Rev--Stat--1997--Ch--107 Part--109--et--seq--and--by--paying--the--appropriate--fee--pertaining--to--26 fil--Adm--Code--Issue--Appendix--B--provided--that--requests--submitted--by--a government--agency--either--federally--state--or--local--need--not--be acknowledged--if--accompanied--by--a--statement--on--stationary--bearing--the Agency--letterhead--and--that--the--request--is--made--for--individual--official purposes--Application--form--will--be--furnished--in--blank--to--Persons--who request--them--by--telephone--or--in--writing--
- d) Examinations--or--proof--of--identification--would--be--

- 1) drivers--license?
- 2) student--identification?
- 3) employee--identification?

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 100.110 Loans by One Political Committee to Another

- a) If a political committee lends or donates funds to a second political committee while the lending or donating committee owes the State Board of Elections a civil penalty assessed under the provisions of

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Section 9-10, 9-23, or 9-26 of the Election Code [10 ILCS 5/9-10, 9-23, 9-26], the officers of the lending committee shall be jointly and severally personally liable to the extent allowed by law for payment of the civil penalty to the extent of the funds loaned or given.

- b) If a political committee goes out of existence while it owes the State Board of Elections a civil penalty assessed under Section 9-10, 9-23, or 9-26 of the Election Code [10 ILCS 5/9-10, 9-23, 9-26], any political committee formed within 24 12 months from the date of the final order imposing a civil penalty assessment on dissolution the first committee and composed of one or more of the same officers, or for the same purpose or for the support of the candidacy of the same person, irrespective of office, as the first committee, shall be deemed a successor committee and shall be responsible for payment of the civil penalty of the first committee.
- c) A political committee which seeks to go out of existence while it is owed money by another political committee must first forgive the debt of the debtor political committee and must amend its reports to show the forgiven debt as a contribution to the debtor committee.
- d) If a political committee seeks to go out of existence after a civil penalty has been imposed upon it pursuant to the Election Code and the rules promulgated thereunder [26 Ill. Adm. Code 125-425, or if a civil penalty has been assessed by Board staff and such a proceeding under Section 125-425 is begun or about to begin, the political committee must first pay such civil penalty or if it lacks sufficient funds to pay such civil penalty in full, pay over to the State Board of Elections such sums as it has in its treasury in satisfaction of the civil penalty. Only upon such payment of the civil penalty, either in full or in part as the case may be, shall the committee be permitted to exit the reporting system established by Article 9 of the Illinois Election Code [10 ILCS 5/Art. 9].

(Source: Amended at 24 Ill. Reg. _____, effective _____)

HEALTH FACILITIES PLANNING BOARD

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1) Heading of the Part: Health Facilities Planning, Financial and Economic Feasibility Review

Code Citation: 77 Ill. Adm. Code 1120

Proposed Action:

3) Section Number:
1120.20
1120.110
1120.120
1120.130
1120.210
1120.310
1120.310 Appendix A

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

5) A Complete Description of the Subjects and Issues Involved: Changes are proposed to Part 1120 to update various review standards and to focus the financial and economic feasibility review criteria upon those factors that have the greatest impact upon containing health care costs. In addition, the State Board believes that applicants who have established and proven financial viability in the marketplace and who can document bond ratings of "A" or better should not be subject to a detailed financial review. The State Board conducted forums on the Certificate of Need (CON) program in July and August. At the forums, many providers felt the CON financial review was duplicative and redundant given the review conducted by the market when a facility obtains financing for a project. The proposed revisions reduce the number of review criteria and substantially eliminate many of the data requirements for "A" rated entities. Other changes are intended to provide less detail with respect to submission of certain documents and will rely upon certified statements from authorized representatives of applicant entities.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporation by reference? No

9) Are there any other proposed rulemakings pending on this part? No

10) Statement of Stakeholder Policy Objectives: The purpose of the Illinois Health Facilities Planning Act (Planning Act) is to contain health care costs by preventing unnecessary construction or modification of health care facilities. The proposed amendments to Part 1120 focus upon the financial and economic feasibility of proposed projects subject to the

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Planning Act and are intended to provide the State Board with a basis for determining if project costs are reasonable and necessary.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking by writing within 45 days after this issue of the Illinois Register to:

Donald Jones
Health Facilities Planning Board
Illinois Department of Public Health
Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, Illinois 62761-0001
(217) 782-3516
(217) 785-4308 (Fax)
800-347-0466 (TTY - for hearing impaired only)

E-mail: djones@idph.state.il.us
All written comments received within 45 days of this issue of the Illinois Register will be considered.

A public hearing will be held on Wednesday, November 17, 1999, at 1:30 p.m. at the Hilton Hotel, 700 East Adams, Springfield, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed amendment. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

- 1) Each person presenting oral testimony is requested to provide to the State Board a written (preferably typed) copy of such testimony at the time the oral testimony is presented.
- 2) No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time the hearing is open and limit the time of individual testimony based upon the number of persons wishing to testify. All testimony shall conclude at the specific time except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.
- 3) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the State Board may impose such other rules of procedure, including the order of witnesses, as necessary.

These rules may have an impact on small businesses. In accordance with Sections 1-7 and 5-30 of the Illinois Administrative Procedure Act, any

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small business may present their comments in writing to Donald Jones at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

- a) Types of small businesses, small municipalities and not for profit corporations affected: Health care facilities that meet the definition of small business.
- b) Reporting, bookkeeping or other procedures required for compliance: None

c) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begin on the next page:

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TITLE 77: PUBLIC HEALTH

CHAPTER 11: HEALTH FACILITIES PLANNING BOARD

SUBCHAPTER B: OTHER BOARD RULES

PART 1120
HEALTH FACILITIES PLANNING FINANCIAL AND ECONOMIC FEASIBILITY REVIEW

SUBPART A: STATUTORY AUTHORITY, DEFINITIONS, APPLICABILITY AND REVIEW REQUIREMENTS

Section 1120.10 Statutory Authority and Definitions

1120.20 Applicability and Review Requirements

SUBPART B: INFORMATION REQUIREMENTS

Section 1120.10 Project and Related Cost Data

1120.120 Information Requirements for Financial Feasibility

1120.130 Information Requirements for Economic Feasibility

SUBPART C: FINANCIAL FEASIBILITY REVIEW CRITERIA

Section 1120.210 Financial Feasibility Review Criteria

SUBPART D: ECONOMIC FEASIBILITY REVIEW CRITERIA

Section 1120.310 Economic Feasibility Review Criteria

APPENDIX A Financial and Economic Review Standards

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Emergency amendments at 16 Ill. Reg. 13132, effective August 4, 1999, for a maximum of 150 days; emergency expired on January 1, 1999; adopted at 17 Ill. Reg. 441, effective March 22, 1999; recodified at 20 Ill. Reg. 2596; amended at 21 Ill. Reg. 15872, effective January 1, 1998; amended at 24 Ill. Reg. _____ effective _____.

SUBPART A: STATUTORY AUTHORITY, DEFINITIONS, APPLICABILITY AND REVIEW REQUIREMENTS

Section 1120.20 Applicability and Review Requirements

a) Applicability

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The State Board shall review applications for permit to determine financial and economic feasibility pursuant to the standards and criteria of this Part. All applications shall be subject to this Part except for:

- 1) those applications which are classified as emergency under 77 Ill. Adm. Code 1130; or
- 2) those applications which are solely for discontinuation provided that the discontinuation has no cost; or
- 3) those applications which are solely for the establishment of acute care beds certified for extended care category of service provided the establishment has no cost; or
- 4) those applications which have been deemed complete pursuant to the provisions of 77 Ill. Adm. Code 1130, prior to the effective date of this Part.

b) Review Category

- 1) Applications for permit submitted by persons other than the Department of Human Services Mental-Health-and-Developmental Disabilities and the Department of Veterans' Affairs shall be categorized as Category A or B pursuant to the following:
 - A) Category A—applications which have no project cost or estimated total project cost below \$2 million and which do not propose the establishment of a new category of service or of a health care facility;
 - B) Category B—all applications which are not Category A.
- 2) Applications submitted by the Department of Human Services Mental-Health-and-Developmental Disabilities and by the Department of Veterans' Affairs shall not be categorized. Those applications must provide the information required by Sections 1120.110 and 1120.120, and be revised for conformance with the review criteria of Sections 1120.210(b) and 1120.310(d).
- 3) Category B projects which are master design projects shall be reviewed for the financial and economic compliance of the master design costs. The applicant shall comply with all information requirements and be reviewed against the applicable review criteria for Category B projects. In addition the master plan and future construction or modification project(s) associated with the master design shall be reviewed for both financial and economic feasibility. All proposed future project(s) detailed in the master design project shall also be reviewed as Category B project(s) subject to the referenced review criteria excluding Conditions, Terms of Debt Financing (Section 1120.310(b)), Reasonableness of Project Costs (Section 1120.310(c)), and Reasonableness of Resultant Operating Costs (Section 1120.310(e)).

c) Information Requirements
 Applicants (including co-applicants) other than the Departments of Veterans' Affairs and Human Services Mental-Health-and-Developmental Disabilities must provide the information specified in Table I

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according to the application's review category. When there are co-applicants to a proposed project, the information required in Table I must be provided for each co-applicant.

Table I

Information Requirements

	Information Requirements			Review Category
	Project	and Related	Cost	(Section 1120.110)
				A B
				Financial Feasibility Sources-and-Uses-of-Bonds (Section 1120.120)

	Information Requirements			Review Category
	Project	and Related	Cost	(Section 1120.110)
				Bond Rating or Historical Financial Statements (Section 1120.130(a))
				Bereavement—and—Amortization---(Section 1120.310(f))
				Projected Patient Statistics (Section 1120.310(e))
				Projected---Financial---Statements---(Section 1120.310(d))
				Assumptions-(Section 1120.310(e))
				Projected Capital Costs (Section 1120.130(d))
				Projected Operating Costs (Section 1120.130(g))

d) Review Criteria

Category A and B applications will be reviewed for conformance with the applicable review criteria specified in Table II.

Table II

Applicable Review Criteria

Review Category	A	B
Review Category	A	B

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Financial Viability (Section 1120.210(a)) Yes Yes

Availability of Funds (Section 1120.210(5b)) Yes Yes

Operating Start Up Costs (Section 1120.210(b)) No Yes

Reasonableness of Financing Arrangements (Section 1120.310(a)) No Yes

Conditions Terms of Debt Financing (Section 1120.310(b)) Yes Yes

Costs of Debt Financing-(Section-1120.310(c)) No----Yes----

Reasonableness of Project Costs (Section 1120.310(cd)) Yes Yes

Reasonableness of Resultant Operating Costs (Section 1120.310(d)) Yes Yes

Total Effect on Capital Costs (Section 1120.310(e)) No Yes

Non-Patient Related Services (Section 1120.310(fg)) _____

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART B: INFORMATION REQUIREMENTS**Section 1120.110 Project and Related Cost Data**

a) **Estimated Total Project Cost** The applicant shall provide either its most recent bond rating (that must be less than two years old) from Fitch's, Moody's, or Standard & Poor's rating agencies that documents a rating of "A" or better or provide project cost information for each of the following components as is applicable. When a project or any component of a project is to be accomplished by lease, donation, gift or any other means, the fair market value or dollar value which would have been required for purchase, construction, or acquisition shall be included in the estimated total project cost. The applicant shall submit documentation as to the fair market or dollar value in accordance with the requirements of 77 Ill. Adm. Code 1190.40.

- 1) Replanning costs--includes costs incurred prior to the submission of an application, such as development and feasibility

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studies, market studies, legal fees, bid solicitation, etc.; Site survey and soil investigation fees--includes costs for surrounding surveying of a proposed project site and resulting soil investigation fees;

- 2) Site preparation--includes costs of rental equipment for earthwork, concrete, lifting and hoisting, site drainage, utilities, demolition of existing structures, clearing, grading and earthwork;
- 3) Off-site work--includes costs of drainage, pipes, utilities, sewage, roads, and walks;
- 4) Construction and modernization contracts--includes expenses covered under the construction contract, including major medical and other fixed equipment, contractor's overhead and profit;
- 5) Contingencies--means an allowance for unforeseeable events relating to construction or modernization;
- 6) Architectural & engineering fees--includes fees associated with the development and implementation of drawings and design materials for a proposed project;
- 7) Consulting and other fees--includes charges for the services of various types of consulting and professional expertise, including environmental impact, acoustical studies, computer software fees, etc.;
- 8) Major capital equipment not in construction contracts--includes the cost of all movable capital equipment, including any movable major medical equipment and the cost of installation of the equipment, excluding any trade-in allowances on existing equipment;
- 9) Bond issuance expense--includes all costs associated with the issuance of bonds to finance a project, including issuer's fees, bond counsel's fees, official statements, feasibility study, official statement, printing, printing of bonds, survey of the collateral site, title insurance to property, auditor's fees, trustee fees, underwriters' discount, and government fees (if applicable);
- 10) Net interest expense during construction--means the difference between interest earned on funds for construction and interest expense on the amount of borrowed funds;
- 11) Other costs which are to be capitalized--includes miscellaneous fees and working capital expenses related to the project; and
- 12) Acquisition of buildings or other property--includes the cost incurred (or the fair market value) for the acquisition of buildings or property for the project. Any acquisition which has occurred within two years from the date the application for permit is submitted must be included as part of project costs.

b) **Related Cost Data**

- 1) **Land Acquisition Cost** The applicant shall provide the purchase price or fair market value, whichever is applicable, for the acquisition of land that

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is required in order to undertake the project. Acquisition of land is not a capital expenditure and is not included as part of project costs.

2) Operating Start-up Costs

The applicant shall provide a schedule of estimated non-capitalized operating start-up costs and an estimate of any initial operating deficit.

AGENCY NOTE: Any capitalized costs which are related to the start-up costs of a facility must be included in the total estimated project cost.

3) Construction and Modernization Costs and Schedule

The applicant shall provide a construction or project completion schedule which details the anticipated dates and percent of project construction or modernization completion at the 5th, 50th, 75th, 95th and 100th percentile of project funds expended..

4) Debt Service Reserve Fund

Applicants shall provide the amount that will be placed in a debt service reserve fund and shall also provide the terms and conditions of uses of the fund.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1120.120 Information Requirements for Financial Feasibility

The applicant must provide either its most recent bond rating (that must be less than two years old) from Fitch's, Moody's, or Standard and Poor's rating agencies that documents a rating of "A" or better or provide evidence of financial resources to fund the project and any related costs as follows:

a) Cash and Securities

The applicant must provide statements (e.g., audited financial statements, letters from financial institutions, board resolutions) as to the amount of cash and securities available for the project. The applicant must provide the identification of any security, its value, and availability of such funds. Interest to be earned or depreciation account funds to be earned on any asset from the date of application submittal through project completion are also considered cash.

b) Pledges

For anticipated pledges, the applicant must provide a letter or report as to the dollar amount feasible showing the discounted value and any conditions or action the applicant would have to take to accomplish this goal. The time period, historical fund raising experience and major contributors also must be specified.

c) Gifts and Bequests

For gifts and bequests available for the project, the applicant must provide verification of the dollar amount and identify any conditions and timing of its use.

d) Debt Financing

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The applicant must provide the terms and conditions for existing debt including leases, covenants-of-existing-debt obligations and debt service reserves funds; the applicant must also provide the estimated terms and conditions for the following types of debt financing proposed to fund the project:

- 1) For general obligation bonds, the applicant must provide proof of passage of the required referendum or evidence that the governmental unit has the authority to issue such bonds and also provide evidence of the dollar amount of the issue and any discounting or shrinkage anticipated;
- 2) For revenue bonds, the applicant must provide proof of the feasibility of securing the specified amount;
- 3) For mortgages, the applicant must provide a letter from the prospective lender attesting to the expectation of making the loan in the amount and time indicated;
- 4) For leases, the applicant must provide a copy of the lease including all the terms and conditions of the lease including any purchase options;

e) Governmental Appropriations

The applicant must provide a copy of the appropriation Act or ordinance accompanied by a statement of funding availability from an official of the governmental unit. If funds are to be made available from subsequent fiscal years, the applicant must provide a resolution or other action of the governmental unit attesting to this intent.

f) Grants

The applicant must provide letter from the granting agency as to the availability of funds in terms of the amount and time of receipt.

g) All Other Funds and Sources

The applicant must provide verification of the amount and type of any other funds that will be used for the project.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1120.130 Information Requirements for Economic Feasibility

(Source: Amended at 24 Ill. Reg. _____, effective _____)

a) Bond Rating of Historical Financial Statements

The applicant must provide either its most recent bond rating (that must be less than two years old) from Fitch's, Moody's, or Standard and Poor's Rating Agencies that documents a rating of "A" or better or provide the most recent three years' audited financial statements that include inuring the following:

1) Balance sheet;

2) Income statement;

3) Changes in fund balance; and

4) Change in financial position.

b) Depreciation-and-Amortization

The applicant must provide--estimated-depreciation-and-amortization

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c7 Projected Patient Statistics
 The applicant must provide a statement of patient statistics including at least patient days by level of care--beds-by--level-of-care--net revenue--and--patient--days--by--source--of--payment--for--the--first--full fiscal year--after--project--completion--or--for--the--first--full--fiscal--year--when--the--project--achieves--or--exceeds--target--utilization--pursuant--to--77 Ill. Adm. Code 1100--whichever is later. The projections must be based upon the target utilization levels.

d7 Projected Financial Statements
 The applicant must provide projected financial statements including before--sheets--in--income--statements--and--changes--in--financial--positions for the first--full--year--after--project--completion--or--exceeds target utilization pursuant to 77 Ill. Adm. Code 1100--whichever is later. The projections must be based upon the target utilization levels.

e7 Assumptions
 The applicant must provide the assumptions used in the projections of patient statistics and financial statements including the following:

- 1) Basis underlining the assumptions
- 2) Substitution of date for former and references employed in the utilization levels

f7 Projected Capital Costs
 The applicant must provide the annual projected capital costs (depreciation, amortization, and interest expense) for:

- 1) The first full fiscal year after project completion; or
- 2) The first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later.

g7 Projected Operating Costs
 The applicant must provide projected operating costs (excluding depreciation and stated in current dollars based on the full-time equivalents (FTEs) and other resource requirements) for the first full fiscal year after project completion or the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later, including:

- 1) Annual operating costs; and
- 2) Annual operating costs change (increase or decrease) attributable to the project

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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If an applicant has not documented a bond rating of "A" or better (pursuant to Section 1120.120), then the applicant must address the review criteria in this section.

a) Financial Viability--Review Criterion
 1) **Financial Ratios**
 Applicants (including co-applicants) must document compliance with viability ratio standards detailed in Appendix A of this Part or address a variance. Applicants must document compliance for the most recent three years for which audited financial statements are available. For Category B applications, the applicant also must document compliance through the first full fiscal year after project completion or for the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later, or address a variance.

2) **Variance for Applications Not Meeting Ratios**
 Applicants not in compliance with any of the viability ratios must document that another organization, public or private, shall assume the legal responsibility to meet the debt obligations should the applicant default.

b) Availability of Funds--Review Criterion
 The applicant must document that financial resources shall be available and be equal to or exceed the estimated total project cost and any related cost.

c) Operating Start-up Costs--Review Criterion
 The applicant must document that financial resources shall be available and be equal to or exceed any start-up expenses and any initial operating deficit.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART D: ECONOMIC FEASIBILITY REVIEW CRITERIA

Section 1120.310 Economic Feasibility Review Criteria

a) Reasonableness of Financing Arrangements--Review Criterion
 This criterion is not applicable if the applicant has documented a bond rating of "A" or better pursuant to Section 1120.20. An applicant who has not documented a bond rating of "A" or better **shall** document that the project and related costs will be fully funded in total with cash and equivalents including investment securities, unrestricted funds, and funded depreciation as currently defined by the Medicare regulations (42 USC 1395l); or

b) Equivalents--must be retained for either of the following:
 At a portion or all of the cash and equivalents must be

SUBPART C: FINANCIAL FEASIBILITY REVIEW CRITERIA

Section 1120.210 Financial Feasibility Review Criteria

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retained in the balance sheet asset accounts in order that the current ratio does not fall below 2.0 time; or
B) by borrowing is less costly than the liquidation of existing investments and the existing investments being retained may be converted to cash or used to retire debt within a 60 day period. The applicant must submit a notarized statement signed by two authorized representatives of the applicant entity (in the case of a corporation, one must be a member of the board of directors) that attests to compliance with this requirement provide documentation of the investment portfolio and evidence that supports retaining such investments.

b) Conditions of Debt Financing—Review Criterion
 The applicant must certify document that the selected form of financing the project will be at the lowest net cost available or if a more costly form is selected, that form is more advantageous due to such terms as prepayment privilege, no required mortgage, access to additional indebtedness, term (years), financing costs, and other factors. If all or Part of the project involves the leasing of equipment or facilities, the applicant must certify the applicant shall issue a document that the expenses incurred with leasing a facility and/or equipment are less costly than constructing a new facility or purchasing new equipment. Certification of compliance with the requirements of this criterion must be in the form of a notarized statement signed by two authorized representative (in the case of a corporation, one must be a member of the board of directors) of the applicant entity.

c) Costs of Debt Financing—Review Criterion
 The applicant must document that the costs of debt financing debt service) shall not exceed the standards detailed in Appendix A of this part.

d) In—determining—compliance—with—the—debt—service—standards—the Agency shall adjust the amount of debt and consider the amount of debt for those obligations which can readily be retired from existing investments:

2) The applicant must document that the existing investments being retired to retire such debt are liquid and that the ability exists to provide documentation of the investment portfolio to verify the liquidity of such investments:

3) Reasonableness of Project and Related Costs—Review Criterion
 1) Construction and Modernization Costs
 Construction and modernization costs per square foot for non-hospital based ambulatory surgical treatment centers and for facilities for the developmentally disabled, and for chronic renal dialysis treatment centers projects shall not exceed the standards detailed in Appendix A of this Part unless the applicant documents construction constraints or other design

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complexities and provides evidence that the costs are similar or consistent with other projects that have similar constraints or complexities. For all other projects, construction and modernization costs per square foot shall not exceed the adjusted (for inflation, location, economies of scale and mix of service) third quartile as provided for in the Means Building Construction Cost Data publication unless the applicant documents construction constraints or other design complexities and provides evidence that the costs are similar or consistent with other projects that have other projects that have similar constraints or complexities.

2) Contingencies (stated as a percentage of construction costs for the stage of architectural development) shall not exceed the standards detailed in Appendix A of this Part unless the applicant documents construction constraints or other design complexities and provides evidence that the costs are similar or consistent with other projects that have similar constraints or complexities. Contingencies shall be for construction or modernization only and shall be included in the cost per square foot calculation.
 AGENCY NOTE: If, subsequent to Permit issuance, contingencies are proposed to be used for other line item costs, an alteration to the permit (as detailed in 77 Ill. Adm. Code 1130.75f) must be approved by the State Board prior to such use.

3) Architectural Fees
 Architectural fees shall not exceed the fee schedule standards detailed in Appendix A of this Part unless the applicant documents construction constraints or other design complexities and provides evidence that the costs are similar or consistent with other projects that have similar constraints or complexities.

4) Major Medical and Movable Equipment
 A) For each piece of major medical equipment, the applicant must select, or if not selected, that the choice of higher cost equipment is justified due to such factors as, but not limited to, maintenance agreements, options to purchase, or greater diagnostic or therapeutic capabilities.
 B) Total movable equipment costs shall not exceed the standards for equipment as detailed in Appendix A of this Part unless the applicant documents construction constraints or other design complexities and provides evidence that the costs are similar or consistent with other projects that have similar constraints or complexities.

5) Other Project and Related Costs
 The applicant must document that any preplanning, acquisition, site survey and preparation costs, net interest expense and other estimated costs do not exceed industry norms based upon a

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comparison with similar projects that have been reviewed.

d(e) Reasonableness of Resultant Operating Cost--Review Criterion
The applicant Applicant must provide the projected direct annual operating costs in current dollars per equivalent patient day or unit of service for the first full fiscal year after project completion or utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later.

e(f) Direct costs means the fully allocated costs of salaries, benefits and supplies for the service document that operating costs, benefiting from the project shall be reasonable in relation to the operating costs of comparable providers and similar services based upon cost analysis detailed in Appendix A of this Part.

e(f) Total Effect of the Project on Capital Costs--Review Criterion
The applicant must provide document that the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year after project completion or the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later shall be reasonable in comparison to comparable providers and similar services and not exceed the standards detailed in Appendix A of this Part on 27 thereof will be a reduction in the operating costs annual operating costs which equals or exceeds the projected annual capital cost attributable to the project.

f(g) Non-patient Related Services--Review Criterion
The applicant must document that projects involving non-patient related services (doctors' offices, parking garages, day care centers, independent living units apartments, etc.) will be self-supporting and not result in increased charges to patients or that increased charges to patients are justified based upon such factors as, but not limited to, a cost benefit or other analysis which demonstrates that the project will improve the applicant's financial viability.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 1120 APPENDIX A Financial and Economic Review Standards

Review Criterion 1120-210(a), Financial Viability

Current Ratio =
Current Assets/Current Liabilities

Net Margin Percentage or
Net Excess Margin =
Net income/Net operating revenue
X 100%

Percent Debt to Total Capitalization =
Long-term debt/Long-term debt and unrestricted fund balance X 100%

Projected Debt Service Coverage =
Net Income + Depreciation +
Interest + Amortization/
Principal and Interest (for year of maximum debt service after project completion)

Days Cash on Hand =
Cash and Investments +
Board Designated Funds /
Operating Expense -
Depreciation Expense/365

Cushion Ratio =
Cash and Investments +
Board Designated Funds /
Maximum Annual Debt Service

90 days for hospitals and facilities
other than long-term care
75 days for long-term care facilities
75 days for ambulatory surgical treatment centers, end stage renal disease facilities,
and ICF/DD facilities

5 for hospitals and facilities
other than long-term care
3 for long-term care facilities

Review-Criterion-1120-210(a)-Cost-of-Borrowed-Funds

Hospital	Nursing	EP/BB	Sheltered Care	EDNBs Per-Station
\$12,411	\$19,84	\$14,99	\$12,23	\$12,18

AGENCY NOTE: If an applicant operates a hospital and other health care facility(ies) and has combined or consolidated financial statements, all of the hospital standards in this table shall apply to the applicant.

\$137,412

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6.72	222,500,000	5.77	4.82
6.65	225,000,000	5.72	4.78
6.56	227,500,000	5.65	4.72
6.48	230,000,000	5.58	4.67
6.41	232,500,000	5.52	4.62
6.34	235,000,000	5.46	4.57
6.25	237,500,000	5.39	4.53
6.17	240,000,000	5.33	4.49
6.10	242,500,000	5.28	4.43
6.02	245,000,000	5.21	4.38
5.94	247,500,000	5.15	4.32
5.86	250,000,000	5.09	4.29
5.79	252,500,000	5.02	4.23
5.71	255,000,000	4.95	4.18
5.64	257,500,000	4.89	4.13
5.55	260,000,000	4.82	4.09
5.48	262,500,000	4.77	4.03
5.40	265,000,000	4.70	3.99
5.32	267,500,000	4.63	3.94
5.24	270,000,000	4.57	3.90
5.17	272,500,000	4.51	3.84
5.10	275,000,000	4.44	3.79
5.03	277,500,000	4.39	3.76
4.94	280,000,000	4.32	3.71
4.85	282,500,000	4.27	3.67
4.78	285,000,000	4.19	3.60
4.63	287,500,000	4.07	3.55
4.55	290,000,000	4.00	3.50
4.49	292,500,000	3.93	3.46
4.32	295,000,000	3.81	3.40
4.32	299,000,000	3.81	3.30

Source: Handbook of Tables and Fee Schedule: Published by the Capital

AGENCY NOTE: Projects solely for modernization shall be allowed an additional 10% above the rate listed. For example, a modernization project which costs \$300,000 would be allowed 11.42% of construction and contingency costs for architectural and engineering fees from the fee schedule. The Agency would add

to this allowance, thus revising the standard to 13.42 b.

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6 77

565

N/A	\$4,285/bed	\$2,365/bed	\$24,429/station	\$274,559/bed
AGENCY NOTE:	Standards are based upon 1998 1996 data and will be adjusted (inflated or deflated by the lesser of 3% or the latest capital expenditure inflation factor as published pursuant to 77 Ill. Adm. Code 1130, Appendix A) for review purposes to the first fiscal year after project completion or the first full fiscal year when the Project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later.			
Other Project and Related Costs				
Planning—Costs	shall not exceed 1.8% of construction, contingencies and equipment costs.			
Site survey and preparation—Costs	shall not exceed 5.0% of construction and contingency costs.			
Review—Criteria—110-310(e)—Reasonableness—of—Resistant—Operating—Costs—For—all—categories—of—services—present—to—77—Ill.—Adm.—Code 1100—with—the exception of nursing-care categories of services and specialized long-term-care services—for—the development/diseases/conditions/projected—operating—costs—resisting from—the—project—shall—not—exceed—the—median—value—of—total—direct—costs—on—a per—case—or—procedure—basis—				
Comparable—Providers—and—those—with—similar—levels—of—care—and—services—similar—bed—capacities—and—ancillary—support—services—and—similar—physor—mixx—per—case—or—procedure—basis—				

Bireet-costs-means--the--fully--allocated--costs--of--salaries7---benefits7---and
expenses7---for-the-service-

the median value for the following categories of services is:

Open-Heart-Surgery	\$17,437	Hitherto	\$1,559
Acute-Mental-Illness	\$2,386	Med-Surg/Peds	\$1,344
Rehabilitation	\$1,166	Neonatal-ICU	N/A
End-of-Life-Care	\$1,166	NRI	\$1,682
Cardiac-Cath:	\$9,933	Refr.-Therapy	\$58
Substance-Abuse	\$1,337	Kidney-Transplant	N/A
Obstetrics	\$2,897	Burn-Care	\$111
Sheltered-Care	\$7,122	ESRD	\$94

Scenarios were based upon two major assumptions:
or defined by the lesser of 3% or the latest capital expenditure initiation
factors as published pursuant to 77-311 Admin. Code 1130 (Appendix A) for review
purposes to the first fiscal year after project completion for the first five

HEALTH FACILITIES PLANNING BOARD

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fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code §1007 whenever is later;

For all nursing and specialized long-term care services for the developmentally disabled—operating—costs—shall—not—exceed—the median—values—of—costs calculated from the Medicaid cost reports filed with the Finance Section of the Illinois Department of Public Aid;

Median values shall be adjusted for inflation—infation—factor as prohibited lessor of 3% or the latest capital expenditure inflation—factor as prohibited pursuant to 77 Ill. Adm. Code §1007; Appendix A) and comparability—with other providers;

Review Committee 120-310(6)(y)-Potential Effect of the Project on Capital Costs

Medicare

Non-Medicare

*Total Capital Expense/
Adjusted Patient Day
\$255-58
9/04-9/93
N/A
N/A*

Agency NEPRB—Standards are based upon 1996 data and will be adjusted initiated or—adjusted—by—the—lessor—of—3%—or—the—lates—capital—expenditure—initiated factor as published pursuant to 77 Ill. Adm. Code 133; Appendix A)—for review purposes—to—the—first—fiscal—year—after—project—completion—or—the—first—full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code §1007 whenever is later;

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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HEALTH FACILITIES PLANNING PROCEDURAL RULES

fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code §1007 whenever is later;

For all nursing and specialized long-term care services for the developmentally disabled—operating—costs—shall—not—exceed—the median—values—of—costs calculated from the Medicaid cost reports filed with the Finance Section of the Illinois Department of Public Aid;

Median values shall be adjusted for inflation—infation—factor as prohibited lessor of 3% or the latest capital expenditure inflation—factor as prohibited pursuant to 77 Ill. Adm. Code §1007; Appendix A) and comparability—with other providers;

Review Committee 120-310(6)(y)-Potential Effect of the Project on Capital Costs

Medicare

Non-Medicare

*Total Capital Expense/
Adjusted Patient Day
\$255-58
9/04-9/93
N/A
N/A*

Agency NEPRB—Standards are based upon 1996 data and will be adjusted initiated or—adjusted—by—the—lessor—of—3%—or—the—lates—capital—expenditure—initiated factor as published pursuant to 77 Ill. Adm. Code 133; Appendix A)—for review purposes—to—the—first—fiscal—year—after—project—completion—or—the—first—full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code §1007 whenever is later;

(Source: Amended at 24 Ill. Reg. _____, effective _____)

- 1) Heading of the Part: Health Facilities Planning Procedural Rules
- 2) Code Citation: 77 Ill. Adm. Code 1130
- 3) Section Numbers:

Proposed Action:	Section Numbers:
Amendment	1130.140
Amendment	1130.150
Amendment	1130.220
Amendment	1130.410
New Section	1130.543
New Section	1130.544
Amendment	1130.560
Amendment	1130.570
Amendment	1130.620
Amendment	1130.630
Amendment	1130.640
Amendment	1130.650
Amendment	1130.670
Amendment	1130.720
Amendment	1130.740
Amendment	1130.750
Amendment	1130.760
- 4) Statutory Authority: Illinois Health Facilities Planning Act: 120 ILCS 3960j
- 5) A Complete Description of the Subjects and Issues Involved: Changes are proposed to Part 1130 to facilitate the processing of Certificate of Need (CON) applications and to reduce the amount of paperwork presently required in monitoring projects through completion. The State Board conducted forums on the CON program in July and August and received suggestions and input from facilities' representatives concerning many application processing activities. The State Board proposes to expedite certain projects by allowing exemptions for certain equipment and for certain dialysis station additions. Revisions to certain post-permit monitoring requirements are intended to provide greater flexibility for permit holders and will rely upon normalized certifications from authorized representatives instead of submission of contract documents and audited financial reports.

The proposed processing fees for exemption applications will be half of the current fee amount assessed on applications for permit. Other proposed changes are technical and include revising the CON expenditure review thresholds that became effective on October 1, 1999.

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6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporation by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: The purpose of the Illinois Health Facilities Planning Act (Planning Act) is to contain health care costs by preventing unnecessary construction or modification of health care facilities and to improve the "ability of the public to obtain necessary health services" and "establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public." Changes in the procedural rules are intended to lessen the review period for certain projects and to eliminate the submission of certain documents but yet assure that projects are reviewed and completed as expeditiously as possible and remain in accord with the representations made in the application. Development of needed projects supports the Act's purpose of promoting cost containment, quality, and access.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking by writing within 45 days after this issue of the Illinois Register to:

Donald Jones
Health Facilities Planning Board
Illinois Department of Public Health
Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, Illinois 62761-0001
217/785-3516
217/785-4308 (Fax)
800-547-0466 (TTY - for hearing impaired only)
E-mail: djones@idph.state.il.us

All written comments received within 45 days of this issue of the Illinois Register will be considered.

A public hearing will be held on Wednesday, November 17, 1999, at 1:30 p.m. at the Hilton Hotel, 700 East Adams, Springfield, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed amendments. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

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- 1) Each person presenting oral testimony is requested to provide to the State Board a written (preferably typed) copy of such testimony at the time the oral testimony is presented.
- 2) No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time the hearing is open and limit the time of individual testimony based upon the number of persons wishing to testify. All testimony shall conclude at the specific time except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.
- 3) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the State Board may impose such other rules of procedure, including the order of call of witnesses, as necessary.

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Donald Jones at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small business, small municipalities and not for profit corporations affected: Health care facilities that meet the definition of small business.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begin on the next page:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER 11: HEALTH FACILITIES

PLANNING BOARD

SUBCHAPTER b: OTHER BOARD RULES

PART 1130

HEALTH FACILITIES PLANNING PROCEDURAL RULES

SUBPART A: AUTHORITY, PURPOSE AND DEFINITIONS

Section 1130.110 Statutory Authority/Applicability

1130.120 Public Hearings

1130.130 Purpose

1130.140 Definitions

1130.150 Incorporated Materials

SUBPART B: WHO IS SUBJECT TO THE HEALTH FACILITIES PLANNING ACT

Section 1130.210 Persons Subject to the Act

Necessary Parties to the Application for Permit or Exemption

SUBPART C: TRANSACTIONS SUBJECT TO REVIEW

Section 1130.310 Transactions Subject to Review

SUBPART D: TRANSACTIONS WHICH ARE EXEMPT FROM REVIEW

Section 1130.410 Transactions Which Are Exempt from Review

SUBPART E: PROCEDURAL REQUIREMENTS FOR EXEMPTIONS

Section 1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment

1130.520 Requirements for Exemptions Involving the Change in Ownership of a Health Care Facility

1130.530 Requirements for Exemptions Involving Health Maintenance Organizations (repealed)

1130.540 Requirements for Exemptions Involving Discontinuation

1130.541 Requirements for Exemptions for Combined Facility Licensure

1130.542 Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs

1130.543 Requirements for Exemption for Equipment to be Acquired By, or on Behalf of a Health Care Facility Requirements-for-Exemptions-for

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~~Outpatient-Bioprosthetic-and-Treatment-Centers~~

Requirements for Exemption for the Addition of Dialysis Stations

Agency Processing of an Application for Exemption

State Board Action

Validity of an Exemption

SUBPART F: PROCEDURAL REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

Section 1130.610 Duration of the Review Period and Time Frames

1130.620 Consultation, Classification, and Completeness Review, and Review Procedures

1130.630 Agency Actions During the Review Period

1130.640 Extension of the Review Period Prior to Initial State Board Action

1130.650 Modification of an Application

1130.660 Approval of an Application

1130.670 Notice of Intent-to-Deny an Application

1130.680 Denial of an Application

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section 1130.710 Validity of Permits

1130.720 Authorization-to-Obligate-and Obligation

1130.730 Extension of the Obligation Period

1130.740 Renewal of Permit

1130.750 Alteration of a Project for which a Permit Has Been Issued

1130.760 Semi-Annual Progress Reports

1130.770 Project Completion, Final Realized Costs and Cost Overruns

1130.780 Revocation of a Permit

1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health

Facilities Planning Act for Non-compliance with the Act and the State Board's Rules

SUBPART H: DECLARATORY RULINGS

Section 1130.810 Declaratory Rulings

APPENDIX A Annual Inflation Adjustments to Review Thresholds

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 IICCS 3960].

SOURCE: Adopted at 14 Ill. Reg. 7183, effective May 1, 1990; emergency amendment at 15 Ill. Reg. 478, effective March 18, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 9731, effective June 17, 1991; emergency

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amendments at 16 Ill. Reg. 13153, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 17 Ill. Reg. 4438, effective March 24, 1993; amended at 17 Ill. Reg. 5882, effective March 26, 1993; amended at 19 Ill. Reg. 2912, effective March 1, 1993; expedited correction at 21 Ill. Reg. 3753, effective March 1, 1995; recodified at 20 Ill. Reg. 2577; emergency amendment at 21 Ill. Reg. 12671, effective September 2, 1997, for a maximum of 150 days; emergency expired January 30, 1998; amended at 23 Ill. Reg. 3855, effective March 15, 1999; emergency amendment at 23 Ill. Reg. 7752, effective July 9, 1999; amended at 24 Ill. Reg. _____, effective _____.

SUBPART A: AUTHORITY, PURPOSE AND DEFINITIONS

Section 1130.140 Definitions

"Alteration" means any revision or change to a project as detailed in the application that occurs after State Board issuance of the permit. The site of the proposed project or the person(s) who is (are) the permit holder cannot be altered.

Definitions pertaining to program components can be found in the Act and in 77 Ill. Adm. Code 1100 and 1110. Definitions which will assist in the understanding of this part are presented below.

"Applicant" means a person(s) as defined in the Illinois Health Facilities Planning Act (20 ILCS 3/360/3) who applies for a permit or exemption to construct or modify a health care facility or to acquire major medical equipment. See 77 Ill. Adm. Code 1130.220 to determine what parties are necessary for an application.

"Authorized Representative" means a person who has authority to act on behalf of the legal entity or person that is the applicant or permit holder. Authorized representatives are: in the case of a corporation, any two of its officers or members of its board of directors; in the case of a limited liability company, any two of its managers or members (or the sole manager or member when two or more managers or members do not exist); in the case of a partnership, two of its general partners (or the sole general partner when two or more general partners do not exist); in the case of estates and trusts, two beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and in the case of a sole proprietor, the individual that is the proprietor.

"Authorization-to-Obtained-means-a-permit-holder-is-authorized-by-the-State-Board-or-filings-a-report-of-Public-Health-(IDPH)-to-proceed-with-the-project-approved-by-the-State-Board-and-that-the-project-has-been-found-to-be-in-conformance--with-the--provisions-of--Section

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1130-7207--All-projects-except-no-cost-projects-for-discontinuation-are-required-to-obtain-an-authorization-to-obtained-

"Capital Expenditure" means an expenditure made by or on behalf of a health care facility (as such a facility is defined in the Act), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance, or is made obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part and which exceeds the capital expenditure minimum. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditure minimum. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under the Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facility at fair market value would be subject to review. [20 ILCS 3/360/3]

"Capital Expenditure Minimum" means the dollar amount or value which would require a permit for capital projects and major medical equipment. Capital expenditure minimums are annually adjusted to reflect the increase in construction costs due to inflation per Section 1130.310.

"Certified" or "Certification" means approval for a facility to receive reimbursement under Title XVIII and/or XIX of the Social Security Act (42 USC 1395x).

"Change of Ownership" means a change in the person who has operational control of an existing health care facility or a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change of ownership is indicated by, but not limited to, the following transactions: sale, transfer, acquisition, leases, change of sponsorship or other means of transferring control. Examples of change of ownership include:

a transfer of stock or assets resulting in a person obtaining majority interest (i.e., over 50%) in the person who is licensed or certified (if the facility is not subject to licensure), or in the person who owns or controls the health care facility's physical plant and capital assets; or the issuance of a license by IDPH to a person different from the current licensee; or

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for facilities not subject to licensure, the issuance of a provider number to a different person by certification agencies that administer Titles XVIII and XIX of the Social Security Act; or

a change in the membership or sponsorship of a not-for-profit corporation or a change of 50% or more of the voting members of a not-for-profit corporation's board of directors, during any consecutive 12 month period, that controls a health care facility's operations, licensee, certification (when the facility is not subject to licensure) or physical plant and capital assets; or

a change in the sponsorship or control of the person who is licensed or certified (when the facility is not subject to licensing) to operate, or who owns the physical plant and capital assets of a governmental health care facility; or any other transaction that results in a person obtaining control of a health care facility's operations or physical plant and capital assets including leases.

"Completion" or "Project Completion" means that the project has been brought to a conclusion, and that the State Board has determined that the finished project is or is not in accordance with what the State Board authorized, and that a project completion date has been established by the State Board (see Section 1130.770 for further information on Project Completion).

For projects that have documented compliance with the provisions of the permit as authorized by the State Board, the date of project completion is:

for projects with no cost that are limited to total discontinuation of a facility or of a category of service, the date the last patient is discharged or the date the permit for discontinuation is issued whichever comes later; or

for projects with no cost that are limited to a substantial change in beds in licensed long-term care facilities, the date the Agency issues a revised license; or

for projects with no cost that are limited to a substantial change in beds in licensed hospitals or in state-operated facilities, the date the Agency receives a revised physical plant survey or the date of permit issuance which ever is later; or for projects limited to the establishment of a category of

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service, the date the first patient is treated or the date the Agency receives a report of final realized cost, whichever is later; or

for projects limited to the establishment of a health care facility, the date the health care facility is licensed or the date the Agency receives a report of final realized cost, whichever is later; or

for projects limited to the acquisition of major medical equipment, the date IDPH receives a report of final realized costs or the date the equipment is utilized to treat the first patient, whichever is later; or

for projects limited to the addition of end-stage renal dialysis stations and for projects, with a cost, that are limited to the addition of beds, the date the first patient is treated or the date IDPH receives a report of final realized cost, whichever is later; or

for all other projects including modernization of existing facilities, the date the Agency receives a report of final realized costs; or

for projects that the State Board has found not in compliance with the provisions of the permit as authorized by the State Board, including projects with cost overruns, the date of project completion is the date established by the State Board.

"Consolidation" means the combination of two or more existing health care facilities into a new health care facility terminating the existence of the existing or original facilities (A + B = C). Consolidation results in the establishment of a health care facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensure or the loss of certification for facilities not subject to licensure. In example, consolidation becomes reviewable only when new facility with a new license will be established due to the consolidation. In this case the A and B facilities which consolidate are reviewed for discontinuation and the new licensed facility C is reviewed for establishment. It is this discontinuation and establishment which creates the need for review.

"Control" means a person possesses any of the following discretionary and non-discretionary rights or powers:

the right or power to approve and to remove without cause a controlling portion of the governing body of another person; or

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the right or power to require or approve the use of funds or assets of another person for any purpose; or the right or power to approve, amend, or modify the health care facility's by-laws or other rules of governance.

A person may control one or more other person(s). For the purpose of this definition, "governing body" means:

with respect to a corporation having stock, such corporation's board of directors and the owners, directly or indirectly, of more than 50% of the securities (as defined in Section b(1)(l) of the Securities Act of 1933 (15 USC 77b(a)(1)) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the corporation's directors (both of which groups shall be considered a governing body);

with respect to a not for profit corporation not having stock, such corporation's members if the members have complete discretion to elect the corporation's directors, or the corporation's directors if the corporation's members do not have such discretion; and

with respect to any other entity, its governing board or body.

For the purposes of this definition, all references to directors and members shall be deemed to include all persons or entities performing the function of directors or members, however denominated.

A controlling person or entity indirectly controls all persons or entities controlled, or owned directly or indirectly, by any person or entity controlled by such controlling person or entity.

"Construction" or "Modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment for diagnostic or therapeutic purposes or for facility administration or operation or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum. [20 ILCS 3960/3]

"Discontinuation" means to cease operation of an entire health care facility or category of service. Discontinuation includes a determination by the State Board that:

a category of service has not been utilized for its intended

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purpose for a period of twelve months or more; or a category of service approved after January 1, 1992 is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100, for that category of service, by the end of the second year of operation after project completion and on average for any two-year period thereafter (based upon data reported by the facility to IDPH pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service; or an existing category of service is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100, for that category of service, on average for any two-year period commencing on January 1, 1995 and thereafter (based upon data reported by the facility to IDPH pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service.

"Due Diligence" means to take such actions toward the completion of a project for which permit has been granted with that diligence and foresight which persons of ordinary prudence and care commonly exercise under like circumstances. An accident or unavoidable cause which cannot be avoided by the exercise of due diligence in the meaning of this rule is a cause which reasonable and careful persons, under like circumstances, do not and would not ordinarily anticipate, and whose effects under similar circumstances they do not and would not ordinarily avoid.

"Establish" or "Establishment" means the construction of a new health care facility, the licencing of unlicensed building(s) or structure(s) as a health care facility, the replacement of an existing health care facility on another site, or the development, licensing, or certification (if licensing is not applicable) of a category of service.

"Existing Health Care Facility" means any health care facility or any person or organization that owns or operates a health care facility subject to the Act that:

has a license issued by IDPH and has provided services within the past 12 months, unless the failure to provide such service is the

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result of pending license revocation procedures, and has not surrendered or abandoned its license or had its license revoked or voided or otherwise deemed invalid by IDPH; or

is certified under Titles XVIII or XIX of the Social Security Act; or

is a facility operated by the State of Illinois.

AGENCY NOTE: Projects for which permits have been granted but which are not complete as defined in this Section shall not be considered existing facilities, but the approved number of beds or services shall be recorded in the Inventory of Health Care Facilities maintained by IDPH and shall be counted against any applicable need estimate.

"Fair Market Value" means the dollar value of a project or any component of a project that is accomplished by lease, donation, gifts or any other means that would be required for purchase, construction, or acquisition.

"Final Decision" or "Final Administrative Decision" or "Final Determination" means:

the decision by the State Board to approve or deny an application for permit. Action taken by the State Board to deny an application for permit is subsequent to an administrative hearing or to the waiver of such hearing; or

the decision by the State Board on all matters other than the issuance of a permit; or

the decision is final at the close of business of the State Board meeting at which the action is taken.

"Final Realized Costs" means all costs that are normally capitalized under generally accepted accounting principles that have been incurred to complete a project for which a permit was granted. These costs include all expenditures and the dollar or fair market value of any component of the project whether acquired through lease, donation or gift.

"Major Construction Project" means:

Projects for the construction of new buildings;

Additions to existing facilities; and

Moderization projects whose cost is in excess of \$1,000,000 or

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ten percent of the facility's operating revenue, whichever is less. [20 ILCS 3960/5]

"Major Medical Equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of the capital expenditure minimum, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act (42 USC 1195z) to meet the requirements of paragraphs (10) and (11) of Section 1861(s) of such Act. To determine whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included. [20 ILCS 3960/3]

"Merger" means the absorption of one or more existing health care facility into another existing health care facility. The result of the absorption is that only one facility survives (A + B = B). Merger results in the modification (e.g., expansion of beds or services) of the survivor facility and the discontinuation of the facility being absorbed.

"Modification of an Application" or "Modification" means any change to a proposed project during the review period (i.e., prior to final State Board decision) which results in changing the proposed project's physical size or gross square feet, the site within a planning area, the operating entity when the operating entity is not the applicant, the number of proposed beds, the categories of service to be provided, the cost, the method of financing, the configuration of space within the building, or any change in the person who is the applicant, including the addition or deletion of one or more persons as co-applicants.

AGENCY NOTE: A change of site to a site outside the planning area originally identified in the application is not considered a modification and invalidates the application.

"Notification of State Board Action" means the transmittal of State Board decisions to the applicant or permit holder. Notification shall be given to the applicant's or permit holder's designated contact person, legal representative or chief executive officer.

"Obligation" means receipt by the Executive Secretary--subsequent--to--the--existence--of--an--authorization--to--obligate of a notarized certification by two authorized representatives (in the case of a corporation, one must be a member of the permit holder's board of

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directors] an-officer of the permit holder that attests that the project has been initiated on a given date and to-one of the following: that-the-project-has-not-cost-and--been--completed/or that--the--permit-holder--has--executed--these--binding--enforceable contracts-or-lease agreements--previously--terminated--by--[REDACTED] an amount--that-exceeds--the--capital--expenditure--minimum--at--least--33 percent--threshold--(for--appliance)--or--that--is--equal--to--or--greater--than 33 percent--of--the--permits--amount--whichever--is--less--and--affirmed that the financial resources to fund the project are available or committed and affirmed that the project's cost, scope, design, square footage, number of beds or stations, etc. (as applicable) are in accord with what the State Board has approved. Financial---commitment---or availability of financial resources can be shown by a statement from a financial institution or other tender indicating that funding will be provided or that the project is to be done internally by the permit holder---and--has--been--authorized--by--the--governing body--through the release of funds--to--expend 33 percent--or--more--of--the--permits--amount--or an amount--exceeding--the--capital--expenditure--minimum--whichever--is less--that--the--financial--resources--to--fund--the--project--and--that--the stations--cost--scope--design--square--footage--number--of--beds--or stations--etc--is--applicable--in--accord--with--what--the--State--Board has approved--financial--commitment--or--availability--of--financial resources can be shown by a statement from a financial institution or other tender indicating that funding will be provided.

AGENCY NOTE: Failure by the permit holder to provide the required certification of obligation to the Executive Secretary no later than one week following the permit expiration date shall subject the permit holder to the sanctions provided by the Act. Prior to signing principal contracts or otherwise obligating the project--all--permits projects--are--required--to--obtain--an--authorization--to--obligate--pursuant to--Section--1230--720--Projects--that--are--contingent--upon--permits issuance--meaning--authorization--to--obligate--and--obligation--are approved--at--the--time--of--permits--issuance--are--not--required--to--receive an--authorization--to--obligate--or--obligation--from--the--State--Board--to commence a project.

"Operational" means that a permit holder is providing the service(s) approved by the State Board and, for a new health care facility or a new category of service, licensure or certification has been obtained and residents/patients are utilizing the facility or equipment or receiving service.

"Project Obligation Commitment Date" means the date the permit holder initiated or commenced the project as attested to in the notarized certification submitted to the Executive Secretary as evidence of project obligation. executes--binding--enforceable--contracts--to--expand

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an--amount--which--exceeds--the--capital--expenditure--minimum--or--at--least--33 percent--of--the--permits--amount--whichever--is--less--under taken by contract, the project commitment dates--the--date--the permit--holder's--governing--body--authorizes--or--releases--funds--to--expand an--amount--which--exceeds--the--capital--expenditure--minimum--or--at--least--33 percent--or--more--of--the--permits--amount--whichever--is--less--if--a--project has--no--cost--the--project--commitment--date--is--the--date--of--project completion;

"Proposal," or "Project" means any proposed construction or modification of a health care facility or any proposed acquisition of equipment to be undertaken by an applicant.

"Related Person" means any person that:

is at least 50 percent owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50 percent of the health care facility; or owns, directly or indirectly, at least 50 percent of the health care facility; or is otherwise controlled or managed by one or more health care facilities or a person that controls or manages the health care facility; or otherwise controls or manages the health care facility; or is otherwise, directly or indirectly, under common management or control with one or more health care facilities.

"Review Period" means the time from the date an application for permit is deemed complete until the State Board renders its final decision.

"Site" means the physical location of a proposed project and is identified by address or legal property description.

"Substantially Changes the Bed Count of a Health Care Facility" means construction or modification, including acquisition of equipment, which changes the bed capacity of a health care facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility or site to another by more than 10 beds or more than 10% of total bed capacity as defined by the State Board, whichever is less, over a two year period. (Section 5 of the Act) The two year period begins on the date when additional beds added to the facility inventory become operational. When a permit is granted which will result in a change in bed capacity, the applicant facility may not add any more beds in

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those services affected by the permit for two years from the date that such beds become operational without obtaining an additional permit from the State Board. The facility may add beds (as long as the number added does not exceed 10 beds or 10% of the total facility capacity, whichever is less, over the two year period) in the other services not affected by the permit. Each facility will be contacted annually to verify bed inventory. If there is found, through this verification process, an increase in the calculated bed capacity of the facility, IDPH shall determine the date the two year period begins. The dates shall be published in the next available compilation of the Inventory of Health Care Facility and Need Determinations by the Planning Area.

AGENCY NOTE: The discontinuation (reduction) of beds requires notice to IDPH. The effective date of the bed reduction can be no earlier than the date of IDPH's receipt of the bed reduction notice. It should also be noted that all proposed capital expenditures (including those which do not substantially change the bed capacity) in excess of the capital expenditure minimum require a permit, regardless of the purpose or nature of the project or transaction. However, proposals for less than the capital expenditure minimum, including those with no capital expenditure, also require a permit if the project or transaction is for a substantial change in the facility's bed capacity.

"Substantially Changes the Scope or Changes the Functional Operation of the Facility" means:

the addition or discontinuation of a category of service as defined in Part 1100.220; discontinuation as defined in Section 110.140;

a change of a material representation made by the applicant to the "Application for Permit" subsequent to receipt of a permit which is relied upon by the State Board in making its decision. Material representations are those which provide a factual basis for issuance of a permit and include:

withdrawal or non-participation in the Medicare and/or Medicaid programs;

charge information;

requirements of variances pursuant to 77 Ill. Adm. Code 1110;

other representations made to the State Board as stipulated

in the permit letter;

the addition of a surgical specialty not previously approved by the State Board for an ambulatory surgical treatment center (ASTC) that has not been classified as a multi-specialty ASTC by the State Board in accordance with the provisions of 77 Ill. Adm. Code 1110.1540;

an increase of more than three dialysis stations or more than 10% of the facility's total number of dialysis stations, whichever is less, over a two-year period. The two-year period begins on the date the facility's additional stations are certified. When a permit is granted for additional stations or for the establishment of an additional facility/service, the facility may not add any more dialysis stations for two years from the date that such stations approved in the permit are certified without obtaining an additional permit;

AGENCY NOTE: Section 1130.310 details the review requirements (or grandfathering) for kidney dialysis treatment center projects that were undertaken prior to March 1, 1995.

the acquisition, construction, or leasing of space, buildings, or structures for the purpose of providing outpatient surgical services on a site or location that is not within the licensed premises of the health care facility. Outpatient surgical services are those surgical procedures that are routinely performed in such settings as a hospital or ambulatory surgical treatment center, or in any room or area that is designed, equipped, and used for surgery, such as, but not limited to, a surgical suite or special procedure room. Outpatient surgical services do not include those procedures performed as part of a physician's private practice in examination or non-surgical treatment rooms.

AGENCY NOTE: All proposed capital expenditures (including those which do not substantially change the scope) in excess of the capital expenditure minimum require a permit, regardless of the purpose or nature of the project or transaction. However, it should also be noted that proposals from the capital expenditure minimum or less including those with no capital expenditure, also require a permit if the project or transaction is for a substantial change in the facility's scope or functional operation.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 1130.150 Incorporated Materials

The following regulations, standards and statutes are incorporated or referenced in this Part.

a) Federal Guidelines, Statutes and Regulations: U.S. Code 42, The Public Health and Welfare (42 U.S.C.A. § 1395x).

b) State of Illinois Statutes:

1) Illinois Health Facilities Planning Act [20 ILCS 3960] ~~titill Rev-Stat-1997-ch-11-§-Rev-Stat-1997-etc-seq;~~

2) Hospital Licensing Act [20 ILCS 65] ~~titill Rev-Stat-1997-ch-11-§-Rev-Stat-1997-etc-seq;~~

3) Ambulatory Treatment Center Act [210 ILCS 5] ~~titill Rev-Stat-1997-ch-11-§-Rev-Stat-1997-etc-seq;~~

4) Nursing Home Care Act [210 ILCS 45] ~~titill Rev-Stat-1997-and 1998-Suppl-ch-11-§-27-par-1461-etc-seq;titill Rev-Stat-1997-and 1998-Suppl-ch-11-§-27-par-1451-etc-seq;~~

5) Health Maintenance Organizations Act [titill Rev-Stat-1997-ch-1277-Proc-Procedure Act] [5 ILCS 100] ~~titill Rev-Stat-1997-ch-1277-Proc-Procedure Act~~

c) State of Illinois Regulations:

1) Permit Application Fees (77 Ill. Adm. Code 1190);

2) Narrative and Planning Policies (77 Ill. Adm. Code 1100) (See Section 1100.320);

3) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 1180);

4) Public Notice of Opportunity for Public Hearing and Public Hearing Procedures (77 Ill. Adm. Code 1140 i200);

5) Financial and Economic Feasibility Review and Evaluation Plan (77 Ill. Adm. Code 1120 i200) ~~titill Rev-Stat-1997-etc-Sections-1230-266-and 1230-350;~~

6) Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1100) ~~titill Rev-Stat-1997-and Economic-Feasibility-Review-and Evaluation-Plan-for-all-long-term-care-and-chronic-Bdse-facilities-etc;~~

d) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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The following person(s) must be the applicant(s) for permit or exemption, as applicable:

a) For construction or modification projects (excluding projects to establish or change the ownership of health care facilities) of one or more existing health care facilities:

- 1) the person who holds the license (or certification if licensing is not applicable) for each facility; and
- 2) the person who has final control of the person who holds the license (or certification if applicable) for each facility; and
- 3) any related person who is or will be financially responsible for guaranteeing or making payments on any debt related to the project; and

any other person who actively will be involved in the operation or provision of care and who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, building or portions of buildings, structures such as parking garages, etc.

b) For projects to establish new health care facilities or to change the ownership of one or more existing health care facility(ies), the applicant(s) must be:

- 1) the person who will hold the license (or certification if licensing is not applicable) for each facility; and
- 2) the person who has final control of the person who will hold the license (or certification if applicable) for each facility; and
- 3) any related person who is or will be financially responsible for guaranteeing or making payments on any debt related to the project; and
- 4) any other person who actively will be involved in the operation or provision of care and who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, building or portions of buildings, structures such as parking garages, etc.

c) For projects to acquire major medical equipment that is not located in a health care facility and that is not being acquired by or on behalf of a health care facility, the applicant must be:

- 1) the person who is acquiring the equipment; and
- 2) the person who will be responsible for operation of the proposed equipment; and
- 3) the person(s) who has final control of the person(s) who is acquiring the equipment or the person who will be responsible for operation of the equipment; and
- 4) any other person who controls the use of equipment or other capital assets that are components of the project such as, but not limited to, fixed equipment, mobile equipment, buildings or portions of buildings, structures such as parking garages, etc.

AGENCY NOTE: A person or entity that participates in the management of a

SUBPART B: WHO IS SUBJECT TO THE HEALTH FACILITIES PLANNING ACT
Section 1130.220 Necessary Parties to the Application for Permit or Exemption

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health care facility or category of service is not an applicant unless that person or entity possesses the rights or powers specified in the definition of "control" contained in this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART D: TRANSACTIONS WHICH ARE EXEMPT FROM REVIEW

Section 1130.410 Transactions Which Are Exempt from Review

The following proposed transactions are not subject to review if an exemption is granted by the State Board:

- the acquisition of major medical equipment which will not be owned by, operated in behalf of, or located in a health care facility or be used to provide services to an inhabitant of a health care facility;
- the change of ownership of an existing health care facility;
- the discontinuation of an existing health care facility or of a category of service when that discontinuation is the result of:
 - revocation or denial of license renewal by a State or local regulatory agency;
 - for facilities not subject to licensure, the loss of certification;
 - discontinuation action taken by the State Board;
 - the voluntary surrender of a suspended license.

d) the combination of two or more existing health care facilities into a single licensed health care facility, when:

- the existing facilities are located on the same site or on sites adjacent to one another;
- the licensed person for the existing facilities is the same;
- the combination is for the sole purpose of operating the existing facilities under a single license;
- the combination does not involve any cost, any change in scope of services provided, or any change in bed capacity.

e) the temporary use of beds within existing health care facilities for purposes other than categories of service as defined in 77 Ill. Adm. Code 1100, provided the following are met:

- the beds will be utilized to provide services as part of a demonstration program authorized by State or Federal law, such as, but not limited to, the supportive living facility demonstration project established under Section 5-5.01a of the Illinois Public Aid Code; and
- the beds will continue to be inventoried according to their presently approved use;
- the temporary use of such beds shall cease upon withdrawal from or completion of the demonstration program; and
- if such beds are to be permanently used for purposes other than those inventoried, a permit will be obtained from the State

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Board; and that the temporary use of such beds will not be for demonstration models established pursuant to the Alternative Health Care Delivery Act [210 ILCS 3].

f) the proposed acquisition or replacement of equipment by or on behalf of a health care facility that does not substantially change the bed count or the scope or functional operation of a health care facility and that does not exceed the lesser of \$4 million or 5% of the facility's operating revenues derived from patient/resident care (based upon the latest available audited financial statements of the facility).

g) a proposed project for the addition of dialysis stations to existing facilities located in planning areas where the inventory indicates a need for additional stations.

h) proposed projects or transactions (such as name changes or corporate restructuring) that the State Board has determined pursuant to Section 1130.810 do not warrant review.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART E: PROCEDURAL REQUIREMENTS FOR EXEMPTIONS

Section 1130.543 Requirements for Exemption for Equipment to be Acquired By or on Behalf of a Health Care Facility

A person proposing a project to acquire equipment (for, by, or on behalf of a health care facility) that does not change the scope or functional operation of a health care facility and that costs the lesser of \$4 million or 5% of the facility's operating revenue derived from patient/resident care (based upon the latest available audited financial statements of the facility) must submit an application for exemption to the State Board, submit the required application processing fee and receive approval from the State Board.

a) Application for Exemption Information
The application for exemption is subject to approval pursuant to Section 1130.560 and shall include the following information:

- the name and address of the person proposing to acquire the equipment;
- the name and location of the existing facility where the equipment will be located;
- a description of the equipment being acquired, the costs associated with the acquisition of the equipment, and the sources and uses of funds;
- the latest audited financial statements for the facility;
- the method of financing the acquisition;
- the anticipated project, acquisition and construction schedule, including the anticipated date of project obligation and project completion;

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2) a certification that the elements of the transaction or the project complies with the factors specified in Section 1130.310(c);

3) a certification that a final cost report will be submitted to the Agency no later than 60 days following the project completion date;

4) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facility is located; and

10) certification that the equipment has not yet been acquired and that contracts and agreements to acquire the equipment have not yet been entered into or executed.

AGENCY NOTE: Certification of compliance with the exemption information requirements of this Section must be in the form of a notarized statement signed by two authorized representatives (in the case of a corporation, one must be a member of the board of directors) of the applicant entity.

b) Any person requesting an exemption for a project to acquire or replace equipment must publish a legal notice in a newspaper of general circulation in the community in which the facility is located that provides the following:

- 1) the name and address of the facility for which the exemption is sought;
- 2) a brief description of the type of equipment being acquired and the proposed project cost;
- 3) a name, title, address, and phone number of an individual from whom interested parties may obtain information on the proposed acquisition.

AGENCY NOTE: Professional and trade association publications that are intended to serve a defined population will not be considered a newspaper of general circulation.

c) The application processing fee shall be assessed in accordance with the fee assessment provisions for Application for Exemption of Major Medical Equipment specified at 77 Ill. Adm. Code 1190.90.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 1130.544 Requirements for Exemption for the Addition of Dialysis Stations

A person proposing a project to add dialysis stations to an existing facility that is located in a planning area where the inventory indicates a need for additional stations must submit an application for exemption to the State Board, submit the required application processing fee and receive approval from the State Board.

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a) Application for Exemption Information

The application for exemption shall be subject to approval pursuant to section 1130.560 and shall include the following information:

- 1) the name and address of the person proposing the project;
- 2) the name and location of the existing facility where the additional dialysis stations will be added;
- 3) the number of dialysis stations to be added and the cost associated with the addition and the sources and uses of funds;
- 4) the anticipated project schedule, including the anticipated date of project obligation and project completion;
- 5) documentation that for the most recent twelve month period, the existing facility has operated at or in excess of the minimum utilization rate specified at 77 Ill. Adm. Code 1100.630;
- 6) a certification that a final cost report will be submitted to the Agency no later than 60 days following the project completion date;
- 7) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facility is located; and
- 8) certification that the project has not yet been entered into or executed.

AGENCY NOTE: Certification of compliance with the exemption information requirements of this section must be in the form of a notarized statement signed by two authorized representatives (in the case of a corporation, one must be a member of the board of directors) of the applicant entity.

b) Legal Notice Requirements

Any person requesting an exemption for a proposed addition of dialysis stations must publish a legal notice in a newspaper of general circulation in the community in which the facility is located that provides the following:

- 1) the name and address of the facility for which the exemption is sought;
- 2) the number of dialysis stations to be added and the proposed project costs;
- 3) a name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction.

AGENCY NOTE: Professional and trade association publications that are intended to serve a defined population will not be considered a newspaper of general circulation.

c) Application Processing Fee

The application processing fee shall be assessed in accordance with the fee assessment provisions for Applications for Exemption of Major Medical Equipment specified at 77 Ill. Adm. Code 1190.90.

(Source: Added at 24 Ill. Reg. _____, effective _____)

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a) Application for Exemption Information

The application for exemption shall be subject to approval pursuant to section 1130.560 and shall include the following information:

- 1) the name and address of the person proposing the project;
- 2) the name and location of the existing facility where the additional dialysis stations will be added;
- 3) the number of dialysis stations to be added and the cost associated with the addition and the sources and uses of funds;
- 4) the anticipated project schedule, including the anticipated date of project obligation and project completion;
- 5) documentation that for the most recent twelve month period, the existing facility has operated at or in excess of the minimum utilization rate specified at 77 Ill. Adm. Code 1100.630;
- 6) a certification that a final cost report will be submitted to the Agency no later than 60 days following the project completion date;
- 7) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facility is located; and
- 8) certification that the project has not yet been entered into or executed.

AGENCY NOTE: Certification of compliance with the exemption information requirements of this section must be in the form of a notarized statement signed by two authorized representatives (in the case of a corporation, one must be a member of the board of directors) of the applicant entity.

b) Legal Notice Requirements

Any person requesting an exemption for a proposed addition of dialysis stations must publish a legal notice in a newspaper of general circulation in the community in which the facility is located that provides the following:

- 1) the name and address of the facility for which the exemption is sought;
- 2) the number of dialysis stations to be added and the proposed project costs;
- 3) a name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction.

AGENCY NOTE: Professional and trade association publications that are intended to serve a defined population will not be considered a newspaper of general circulation.

c) Application Processing Fee

The application processing fee shall be assessed in accordance with the fee assessment provisions for Applications for Exemption of Major Medical Equipment specified at 77 Ill. Adm. Code 1190.90.

(Source: Added at 24 Ill. Reg. _____, effective _____)

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Section 1130.560 State Board Action

a) The approval of an application for exemption requiring action by the State Board requires eight affirmative votes.

b) Exemption applications for the acquisition of major medical equipment, the acquisition of equipment by or on behalf of a health care facility, and the addition of dialysis stations to an existing facility require review and action by the State Board. The Chairman, acting on behalf of the State Board, shall review all other applications for exemption and approve, deny, or refer the applications to the State Board for review and action.

c) The State Board shall evaluate each application for exemption for acquisition of major medical equipment for the acquisition of equipment by or on behalf of a health care facility, for the addition of dialysis stations to an existing facility and any application for exemption referred by the Chairman and either issue an exemption or advise the applicant in writing that the application is denied and is not in compliance with exemption requirements. The State Board shall approve all applications for exemption if the applicable conditions of this Subpart are met. Exemptions will not be issued for projects that have failed to meet the applicable requirements of this Subpart. An exemption for a change of ownership shall not be granted for a project to establish a health care facility which has received a permit but which has not been completed.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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AGENCY NOTE: Failure to provide the required notification of obligation or completion to the Executive Secretary no later than one week following the exemption expiration date shall subject the exemption holder to the sanctions provided by the Act. An exemption for a change of ownership of a health care facility shall be invalid if the health care facility ceases to be an existing health care facility as defined in Section 1130.140.

b) Failure to comply with any conditions and/or certifications required for an exemption shall constitute an unauthorized modification to the exemption and shall subject the person to the penalties provided by the Act.

c) Any person failing to obtain an exemption or permit when required shall be subject to the sanctions provided by the Act. An exemption is not transferable or assignable and cannot be bought or sold on its own or as part of any other transaction.

d) AGENCY NOTE: See Section 1130.120 regarding changes of ownership for facilities with outstanding permits.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART F: PROCEDURAL REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

Section 1130.620 Consultation, Classification, and Completeness Review, and Review Procedures

a) Consultation

The application must be completed in accordance with the requirements of this Part which are applicable to the individual project. An applicant may request consultation with IDPH regarding completion of the application and the applicability of the requirements of this Part prior to submission of the application.

b) Classification of an Application

1) An application for permit shall be classified as:

A) Substantive; or

B) Non-Substantive; or

C) Emergency.

2) Definitions of each classification are set forth in 77 Ill. Adm. Code 1100.220.

c) Completeness Review

1) Upon receipt of an application for permit, IDPH shall determine whether the application is complete or incomplete. An application for any project shall be deemed complete within ten days after receipt of the following have been met:

A) all review criteria applicable to the individual project (77 Ill. Adm. Code 1110 and 1120) have been addressed;

Section 1130.570 Validity of an Exemption

a) An exemption shall be valid for 12 months from the date of exemption issuance. An exemption transaction for which the exemption was issued must be completed within this 12-month period by providing documentation to the Executive Secretary of ~~the~~^{that must be received by} IDPH on or before the expiration date of the exemption that verifies the following as applicable:

1) for change of ownership, the effective date that the transaction was completed, by providing evidence of the issuance of a new license or certification (if licensing is not applicable), of a stock transfer, of a majority change in voting membership or sponsorship of a not-for-profit corporation, of a transfer of assets, of a merger or consolidation, or of any other means of completion;

2) for major medical equipment, the effective date that the equipment became operational, ~~at~~^{or} other exempted transactions the date of the issuance of a new license or the date of approval to participate in a demonstration program whenever it is

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B) the required fee (as outlined in 77 Ill. Adm. Code 1190, Permit Application Fees) has been submitted;

C) six copies of the application including one copy of the application containing original signatures have been submitted;

D) all semi-annual progress reports on previously approved projects have been submitted;

E) all required information concerning completion of previously approved projects has been submitted;

F) when the project proposed contains major medical equipment, the cost of the equipment to be acquired has been provided;

G) all persons who are applicants have been identified and have submitted a Certificate of Good Standing or evidence that the persons are authorized to conduct business in Illinois from the Illinois Secretary of State; and

H) all questionnaires for information or data, such as but not limited to the Annual Hospital or Long-term Care Questionnaire (77 Ill. Adm. Code 1100.60 and 1100.70) or Cancer Registry (77 Ill. Adm. Code 840.110(d) and 840.115(1)), required by IDPH's Office of Epidemiology and Health Systems Development "or the State Board", have been submitted in accordance with IDPH's promulgated rules.

2) An application shall be incomplete if any of the elements described in subsection (c)(1) above are not present or if additional information or documentation is required to clarify a response. Failure to address an applicable criterion or to respond that an applicable criterion does not apply to the proposed project shall be a basis for deeming the application incomplete.

3) Applications received after 8:30 a.m. shall be deemed as being received the following business day.

4) IDPH shall notify the applicant in writing, within ten working days of its decision and in the case of an incomplete application, the reasons therefor.

5) If the application is deemed complete, the date of completion shall initiate the review period. If the application is deemed incomplete, the applicant shall be allowed 90 days from the date of receipt of the notification to provide all necessary information to complete the application. Upon receipt of all additional information requested, IDPH shall again review the application for completeness and shall notify the applicant of its decision within ten working days. If IDPH finds that the application remains incomplete at the end of the allotted response period, the application shall be declared null and void, and all fees paid forfeited.

AGENCY NOTE: It is the responsibility of the applicant to assure that IDPH is in receipt of the additional information within the prescribed time frame.

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d) Review Procedures

1) All applications will be reviewed and evaluated for conformance with the applicable review criteria of Parts 110 and 1120 in effect at the time the application is deemed complete.

2) Each application will be reviewed and considered on an individual basis unless the State Board has established review criteria or procedures that permit or relate to comparative review or "batching" of applications.

3) Applications for permit shall be subject to the need figures set forth in the most recent update to the inventory (refer to 77 Ill. Adm. Code 1100.70) in effect prior to the date the State Board takes action on the application. State Board action includes the following: the approval, issuance of a notice of intent-to-decay or denial of an application.

4) All applications except emergency are subject to the public hearing requirements of the Act. All evidence submitted pursuant to a public hearing shall be taken into account in the determination of compliance or noncompliance of an application with applicable review criteria.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1130.630 Agency Actions During the Review Period

During the course of the review period the Agency shall:

a) Transmit a complete copy of the application (or such part thereof as may be necessary) to offices of the Department of Public Health or to any other state agencies that have requested an opportunity to comment on the application;

b) Notify the applicant of completeness and the start of the review period and forward to the applicant the scheduled date for State Board action;

c) Offer an opportunity for a public hearing, provide a period for written comments concerning the proposed project, and when requested, conduct a public hearing in accordance with the provisions of 77 Ill. Adm. Code 120;

d) Evaluate the application for compliance with the review criteria applicable to the specific project (as set forth in 77 Ill. Adm. Code 1110 or 1120);

e) Transmit to the State Board and to the applicant the following: the Agency's report and findings of the public hearing report and a summary of all written public comment received 20 days prior to the scheduled State Board meeting. Written comments that are received after the 20 day period shall be submitted to the State Board and to the applicant and made part of the application for permit record only if the State Board does not make a final decision and considers the application at a subsequent meeting. A--summary--of--att--written--public--comment--

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Submitted subsequent to this date shall be presented at the State Board meeting:

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1130.640 Extension of the Review Period Prior to Initial State Board Action

a) Requested and Supplemental Information.

1) IDPH may request information or data during the review period. Information furnished at the request of IDPH shall not constitute supplemental information. IDPH may extend the review period until the next scheduled State Board meeting to review requested information.

2) Prior to initial State Board action, the applicant may provide supplemental information or data in support of the project only if such information is for a modification of the application. IDPH shall review the supplemental material for the modification within 60 days after receipt and extend the review period if necessary and present its findings to the State Board for action at its next scheduled meeting.

3) Any submissions of additional or other information (other than that requested by IDPH) by the applicant prior to initial State Board action will not be considered in the review of the project and will be returned to the applicant and will not be included in the project file.

4) Written comments from persons other than the applicant regarding a proposed project shall not constitute requested or supplemental information. Persons submitting written comments must provide a copy to both IDPH and the applicant at least five business days prior to the State Board meeting where the applicant will be considered. The applicant shall be afforded an opportunity to address any written comments received that are in opposition to the proposed project at the State Board meeting.

b) Modification. The review period may be extended up to 60 days by IDPH if the applicant modifies the application prior to initial review by the State Board.

c) The applicant may defer one time—the initial consideration of a project by the State Board. A deferral extends from the State Board meeting at which the project has been scheduled to the next scheduled State Board meeting. A request for deferral may be made in writing prior to the scheduled State Board meeting or verbally at the State Board meeting. An applicant may not defer initial consideration beyond a scheduled meeting date that is more than one calendar year from the date the application was deemed complete.

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(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1130.650 Modification of an Application

a) Modifications (as defined in Section 1130.140) shall be classified as Type A or Type B. Type A modifications shall be subject to public hearing requirements of 77 Ill. Adm. Code 1140.126. If requested, a hearing would occur within the time allocated for IDPH review. Type A modifications consist of any of the following:

- 1) An increase in the number of beds proposed in the project.
- 2) A change in the site of the project to a new location within the planning area.
- 3) An increase in the cost of the project exceeding ten percent of the original estimated project cost.
- 4) A change in the square footage of the project if such change results in an increase in the exterior dimensions of the project.
- 5) An increase in the categories of service to be provided.
- 6) A change in the person who is the applicant, including the addition of one or more co-applicants to the application.

b) All other modifications, including those made by an applicant in conformance with and limited to the comments, recommendations or objections of the State Board, are Type B modifications and are not subject to public hearing.

c) An applicant can modify a project only twice during the review period, provided, however, notwithstanding anything contained herein to the contrary, an applicant may modify a project at any time if such modification is in conformance with and limited to the comments, recommendations or objections of the State Board.

d) If an applicant modifies an application that is not a modification made in conformance with and limited to the comments, recommendations or objections of the State Board, IDPH shall have up to 60 days to review the modification and any supplemental information submitted pursuant to the applicable review criteria, hold a public hearing if requested to, and submit its findings to the State Board at the next scheduled meeting.

AGENCY NOTE: A change in site to a location outside the planning area originally identified in the application is not considered a modification, and will void the application. (See Section 1130.140.)

(Source: Amended at 24 Ill. Reg. _____)

Section 1130.670 Notice of Intent-to-Deny an Application

a) Issuance of Notice of Intent-to-Deny

If an application for permit fails to receive eight affirmative votes upon the initial State Board consideration, the applicant shall be

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issued a Notice of Intent-to-Deny the application for permit. The Notice of Intent-to-Deny shall be sent to the applicant by certified mail and shall afford the applicant an opportunity to appear before the State Board and an opportunity to submit additional information in support of the project.

Applicant's Response

b) The applicant shall notify the State Board in writing and within ten working days after receipt of the Notice of Intent-to-Deny, whether it intends to:

- 1) appear before the State Board; and/or
- 2) submit additional information.

AGENCY NOTES: It is the responsibility of the applicant to assure that the State Board is in receipt of the response within the ten day prescribed time frame.

Action Following Notice of Intent-to-Deny

- 1) If the applicant waives the right to appear before the State Board or if a written response is not received within ten working days after receipt of the notice of opportunity to appear, then the application shall be considered withdrawn.
- 2) If the applicant indicates that no additional information will be submitted, the State Board shall take action on the application at its next meeting.
- 3) If the applicant indicates that additional documentation shall be submitted, the applicant shall be afforded a period of 60 days from the date of the State Board's decision of Notice of Intent-to-Deny to submit such material. No material will be accepted by IDPH after the 60 day period expires. IDPH shall be allowed up to 60 days following the receipt of all material to review the material and issue a supplemental report. IDPH may request additional information or data during the review of the information submitted by the applicant. IDPH may extend the 60 day review period by no more than an additional 30 days to review the requested information. The project shall be considered at the next regularly scheduled State Board meeting following completion of IDPH review.

- 4) Written comments submitted to IDPH from persons other than the applicant regarding a proposed project that has received a Notice of Intent-to-Deny shall not be included in the project file. This provision does not apply to public hearing testimony or comments that are received pursuant to a Type A modification.

d) Deferments

A project which has received a Notice of Intent-to-Deny and has been scheduled for State Board consideration can be deferred only by the applicant and only until the next scheduled State Board Meeting. An applicant may not defer State Board consideration beyond the date of the meeting date that is more than six months from the date the applicant received an intent-to-denry.

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(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section 110.710 Validity of Permits

A permit is effective on the date of State Board authorization.

- a) A permit shall be valid until such time as the project has been completed, provided that obligation of the project occurs within 12 months following issuance of the permit except for "major construction projects" and Master Construction projects, in which case obligation must occur within 18 months unless the obligation period is extended by the State Board (as defined in Section 110.730); and the project commences and proceeds to completion with due diligence (as defined in Section 110.140). The obligation period shall be extended for any project for which issuance of a permit has been contested and is in administrative review. The obligation period will be extended by the length of time equal to the number of days from the date a summons was received until the date of final disposition of the suit. Projects other than projects approved pursuant to a master design permit under §25.7 million must be completed within two years from the project commitment date specified in the application or five years from the completion date specified in the application or five years from the project commitment date whichever is earlier. Permits for projects approved pursuant to a master design permit must be completed within the timetable for completion specified in the application for Permit. All permits for projects which are not completed in the timeframes specified shall expire for lack of due diligence, unless renewed by the State Board pursuant to fees defined in Section 110.709.
- b) A permit is valid only for the defined construction or modification, equipment, site, amount and person(s) named in the application for such permit and shall not be transferable or assignable. A transfer or assignment of a permit includes a change in the person who is the permit holder; a change in the membership or sponsorship of a not-for-profit corporation which is the permit holder; or the transfer, assignment, or other disposition of ten percent or more of the stock or voting rights thereunder or to a for-profit corporation which is the permit holder.
- c) A permit shall not be bought, sold, nor transferred either on its own or as part of a transaction for a change of ownership of a health care facility or for the acquisition of major medical equipment. When a facility with a valid permit is purchased or otherwise acquired, such permit may not be transferred to allow the acquiring entity to complete the project for which the permit was granted. For projects not yet complete, an alteration must be obtained by the permit holder in accordance with the provisions of Section 110.750. If a change of

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Ownership occurs involving a valid permit which has not been completed the permit shall be considered abandoned by the permit holder.

Source: Amended at 24 Ill. Reg. _____ effective _____.

Business-to-Government Obligation

Projects for construction, establishment or modification must be obligated (pursuant to Section 1130.1(a)) prior to the expiration date of the permit.

+ Prior to obligating --for--all--projects--except--no-cost--projects--for disconnection--the permit-holder must receive an--authorization--to obligate--the project--from--TBBR--Authorization is based--on a demonstration--that the permit-holder of--contained--compliance--with--all financial--and--economic--feasibility criteria--and--that the project is in accordance--with--the representations--contained--in the application and in compliance--with--the alteration requirements--in Section 1130.756--It is the--responsibility--of the--permit--holder--to--initiate--the authorization--or--debt--process--by--written--notification--to--TBBR prior to obligating the project--pursuant--to--Section 1130.1(e)--the permit--holder shall submit--the following--for an authorization to obligate--request:

- + project identification--information--including--permit--number--and name--of--parent--holder;
- + documentation--of--sufficient--financial--resources--to--complete--the project as evidenced by a commitment--document--or--a letter--of intent--to--provide--financing--from--a--financial--institution--or--other lending--institution--than--funding--will--be--provided--on--by certification--that the--governing--body has--authorized--the--release of--funds--and--has--reserved--sufficient--funds--to--complete--the project;
- + a revised breakdown--of--project--costs--and--sources--of--funds--or--lease agreements--involving--the--project;
- + a statement--which--lists--the--alterations--ie--any--that--are proposed--for--projects--that--have--approved--construction--and--contingency costs--in--excess--of--the--capital--expenditure minimum--proof--that if--the--project--is--subject--to--architectural--review--by--TBBR pursuant--to--licensing--requirements--approval--of--such--drawings has--been--obtained; and
- + if--no--alterations--are--proposed--certification--that--the--project's scope--is--in--accord--with--the--representations--contained--in--the application;

Projects--Approved--prior--to--March--1--1995--which--do--not--exceed--ten percent--of--the--originally--approved--permits--amount--and--which--reduced--contended--compensation--with--the--debt--financing--limitations--the

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financial—and—economic—feasibility—regarding
requirements—of—the—State—Board—shall—be—established
projects—approved—subsequent—to—March—1—1995—
permit—amount—and—which—refers—continued
financing—limitations—the—financial—and
requirements—the—documentation—requirements
affecting—requirements—of—the—State—Board—is
obligated—
e) projects—with—attested—permits—amounts—reg
approvals—dater—or—the—alteration—approval—reg
the—dated—permits—amounts—and—which—reflects—con
debt—financing—limitations—the—financial—and
requirements—the—documents—requirements—o
attestation—requirements—of—the—State—Board
obligated—
f) obligation—a—project—occurs—only—upon—recert
required—pursuant—to—Section—110.740—for—proj
b) h) permits for projects which have not been
expedited date of the permit shall be consid
project abandoned
patients—to—comply—with—the—authorization
share—the—cause—for—the—State—Board—to—initiate
the—permit—and/or—seek—sanctions—provided—by—t
(Source: Amended at 24 Ill. Reg. —)

1130.740 Renewal of a Permit

Object must be completed within the timeframes specified
in the Permit Section 110.740 unless renewed by the State Board for Project
a) Renewal of a permit by the State Board for Project
subject to the following:

- 1) Projects which have not obtained permit required
obligated prior to May 1, 1990, must be renewed no later than March 26, 1994.
- 2) Projects which have obtained permit required
obligated after May 1, 1990, must be renewed prior to the required project completion date.
renewals prior to the required project completion date
Failure to complete a project or to renew
prescribed timeframes shall result in the expi
lack of due diligence, and the matter shall be
administrative hearing under 77 Ill. Adm. Code
shall be considered abandoned.
- b) A permit renewal shall commence on the expiration
or renewal completion period.
- c) The request for permit renewal shall be received by IDPH at least 45 days but no more
- d) The request for permit renewal shall be received by IDPH at least 45 days but no more

130 740 banana] of a Permit

Section 1130 ZAO Renewal of a Permit

A project must be completed within the timeframes specified in the Application for Permit Renewal by the State Board unless renewed by the State Board.

a) Renewal of a permit by the State Board for projects not completed is subject to the following:

- 1) Projects which have not obtained permit renewals and which were obligated prior to May 1, 1990, must have obtained permit renewals no later than March 26, 1994.
- 2) Projects which have obtained permit renewals or which were obligated after May 1, 1990, must be completed or obtain permit renewals prior to the required project completion date.

b) Failure to complete a project or to renew a permit within the prescribed timeframes shall result in the expiration of the permit for lack of due diligence, and the matter shall not be subject to an administrative hearing under 77 Ill. Adm. Code 1180 and the project shall be considered abandoned.

c) A permit renewal shall commence on the expiration date of the original or renewed compilation period.

d) The request for permit renewal shall be in writing and shall be received by IDPH at least 45 days but no more than 90 days prior to

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the expiration date of the completion period, and shall include the following information:

- 1) the requested completion date; and
- 2) a status report on the project detailing what percent has been completed and a summary of project components yet to be finished and the amount of funds expended on the project to date; and
- 3) a statement as to the reasons why the project has not been completed; and
- 4) evidence of financial commitment to fund the project; and
- 5) the anticipated final cost of the project.

e) The State Board will evaluate the information submitted to determine if the project has proceeded with due diligence (as defined in Section 1130.140). Eight affirmative votes are required to approve a renewal. Denial of a permit renewal request shall constitute the State Board's "Notice of Intent to Revoke," a permit and shall be subject to appeal under the provisions of 77 Ill. Adm. Code 1180 (Practice and Procedure in Administrative Hearings).

AGENCY NOTE: Permit revocation procedures are explained in Section 1130.780.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1130.790 Alteration of a Project for which a Permit Has Been Issued

A permit is valid only for the defined construction or modification, equipment, site, amount and person(s) named in the application. Any change to a project subsequent to the State Board's issuance of a permit constitutes an alteration to the project. All alterations are to be reported to the State Board prior to incurring the alteration. Certain alterations require only notice to the State Board; others require notice and approval from the State Board; and others are not allowable and if incurred, invalidate a permit. A permit holder must also report any alterations that have occurred without prior notice to the State Board. A permit holder that has incurred an alteration without providing prior notice is in violation of permit validity requirements of this section and is subject to the imposition of sanctions or penalties as provided by the Act.

a) The permit holder shall notify IDPH in writing of any proposed or incurred alterations to a project for which a permit has been issued. The notice shall include a description of the alteration and related costs (if any). If the alteration requires State Board approval, the notice must also address all applicable review criteria related to the alteration. In addition, a proposed alteration that requires State Board approval must be received by IDPH at least 45 days prior to the next scheduled State Board meeting.

b) Alterations that necessitate only notice to the State Board are those alterations that do not require State Board approval and do not invalidate the permit.

c) Proposed or incurred alterations that require notice and approval from

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the State Board are:

- 1) before project obligation:
 - A) a change in the approved number of beds or stations; or
 - B) abandonment of an approved category of services; or
 - C) any increase in the square footage of the project provided the increase does not exceed the lesser of 5% of the approved gross square footage or 5,000 additional gross square feet (Note: any increase in excess of those allowable by this provision invalidate the permit); or
 - D) for projects (other than projects approved pursuant to a master design permit) approved prior to March 1, 1995, an increase in the cost of the project that exceeds 10% of the original approved permit amount; or
 - E) for projects approved subsequent to March 1, 1995 including projects approved pursuant to a master design permit, any increase in the cost of the project that exceeds the permit amount; or
 - F) any increase to an altered permit amount; or
 - G) any increase in the amount of funds to be borrowed; or
 - H) any increase in the project costs (components (i.e., line item amounts) if such increase is not in effect at the time 77 Ill. Adm. Code 1120 review criteria;
- 2) after project obligation:
 - A) a change in the approved number of beds or stations; or
 - B) abandonment of an approved category of services; or
 - C) any change in the project's design or change in the project's gross square footage unless such change is required or mandated by local, State, or Federal building or life safety requirements that were not in effect at the time of project obligation; or
 - D) any increase in the amount of funds to be borrowed; or
 - E) any increase to the permit amount or to an altered permit amount; or
- 3) ~~any increase in the project costs—components—fifty-line item amounts—if such increase is not in compliance with the 77 Ill. Adm. Code 1120 review criteria;~~
- 4) ~~the following alterations are not allowable and if incurred invalidate the permit:~~
 - 1) an increase in the project costs, prior to obligation, that exceeds the lesser of 5% of the permit amount or the capital or major medical equipment minimums; or
 - 2) an increase in the project's gross square footage, prior to obligation, that exceeds the lesser of 5% of the project's approved gross square footage or 5,000 additional gross square feet; or
- 5) ~~an increase in the project's gross square footage, subsequent to obligation, unless the increase is required or mandated by local, State or federal building or life safety requirements that were~~

HEALTH FACILITIES PLANNING BOARD

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e) not in effect at the time of project obligation.

1) IDPH shall review the alteration request for compliance with the review criteria and submit its findings to the State Board. If additional information is needed by IDPH to perform a review of the request, the permit holder shall be notified.

2) A request for alteration reviewed by the State Board is subject to the provisions of 77 Ill. Adm. Code 1110 or 1120, which are applicable to the individual project. Any proposed increase to a permit amount that exceeds the State Board's thresholds for capital expenditures can be reviewed as an alteration to the project providing that there are no other components to the proposed alteration that, when taken as a separate component, require a permit under the Act. Such components and any other proposed alterations to a project which would, when taken as a separate component, require a permit under the Act, shall not be subject to review under this Section but shall require a new application.

f) Upon approval of a request for alteration, IDPH shall revise the permit to reflect the alteration and shall adjust all inventories accordingly. If a permit holder reduces the scope or size of the project, the permit amount shall be reduced accordingly.

g) Decisions on requests for alteration shall be transmitted, in writing, to the permit holder by the Executive Secretary.

h) Eight affirmative votes are required for approval of an alteration. The approval or denial of a request for alteration constitutes the State Board's final administrative decision. Approval of an alteration is based on the continued compliance of the project with 77 Ill. Adm. Code 1110 or 1120, as applicable.

i) Any alteration without State Board approval (when required) shall be considered a violation of the Act and shall be subject to the penalties mandated in the Act and in Section 1130.790.

j) Affirmative votes are required for approval of an alteration.

The approval or denial of a request for alteration constitutes the State Board's final administrative decision. Approval of an alteration is based on the continued compliance of the project with 77 Ill. Adm. Code 1110 or 1120, as applicable.

l) Any alteration without State Board approval (when required) shall be considered a violation of the Act and shall be subject to the penalties mandated in the Act and in Section 1130.790.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1130.760 Semi-Annual Progress Reports

a) Each permit holder shall submit semi-annual progress reports to the Agency every six months from the permit issuance date or until such time as the project is completed. The semi-annual progress reports are due between 30 days prior or 30 days after the anniversary date of 250+160=410 days after permit issuance and--between--250+160=410 days thereafter. Such reports shall include:

- 1) current status of the project including: the percentage of the project finished; components finished and components yet to be finished; any changes in the scope of the project and size; and
- 2) cost incurred to date and an itemized listing of the total

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current estimated project costs by sources and use of funds as detailed in 77 Ill. Adm. Code 1120 and a comparison of those costs to the approved permit amounts; and current information on financing for the project; and

- 3) the schedule of construction stages to completion; and
- 4) the anticipated date of completion.

b) Failure to provide the required semi-annual progress reports will result in future applications being considered incomplete until the required reports are received by the Agency.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1130.770 Project Completion, Final Realized Costs and Cost Overtuns

Each permit holder shall notify the State Agency regarding completion of the project.

a) For Projects with no cost, the permit holder must submit a written notice of project completion to the Agency. Such notice is required only when a completion date has not been determined by the Agency pursuant to Section 1130.140(g).

b) For all other projects which have costs—that-will-be—submitted—for reimbursement—pursuant-to-sections-7-and-11K-of-the-Social-Security Act, the permit holder must submit a report of final realized costs containing the following:

- 1) a detailed itemization of all project costs and sources of funds as detailed in 77 Ill. Adm. Code 1120;
- 2) an itemization of those project costs which have been or will be submitted for reimbursement under Title XVII and XIX;
- 3) a certification that the final realized costs are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project which will be submitted for reimbursement under Title XVII or XIX;

c) Certification attesting to compliance with the requirements of this Section must be in the form of a notarized statement signed by two authorized representatives (in the case of a corporation, one must be a member of the board of directors) of the entity that is the permit holder. verification—of—the—required information signed by two officers of the legal entity—that—is—the—permit-holder.

d) For projects—which—have—costs—that—will—not—be—submitted—for reimbursement—pursuant—to—Title—XVII—and—XIX—of—the—Social—Security—Act—the—permit—holder—must—submit—a—report—of—final—realized—cost—containing—the—following:

- 1) a detailed itemization of all project costs and sources of funds
- 2) a certification of the expenditures and sources of funds by—an

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indification--and/or? 3) verification--for--be--signed--by--two--officers--of--the--legality--that--is--the--permit--holder;

cl> Failure to file final realized costs reports will result in subsequent applications for permit filed by the permit holder to be deemed incomplete until the required report is filed.

d> All permits for projects which are not completed in required timeframes shall constitute a basis to revoke the permit, unless renewed by the State Board (reference Section 1130.710 and 1130.710).

e> For projects approved prior to the March 1, 1995, if the final realized cost exceeds the originally approved permit amount or revised permit amount (if less than the original amount) by more than ten percent, the amount over ten percent shall be considered a cost overrun without a permit unless subsequently approved by the State Board.

f> For projects which have an altered permit amount approved by the State Board, regardless of permit or alteration approval date, any amount of the final realized cost which exceeds the revised permit amount shall be considered a cost overrun and without permit subsequently approved by the State Board.

g> For projects approved subsequent to March 1, 1995, any amount of the final realized cost that exceeds the permit amount shall be considered a cost overrun without a permit unless subsequently approved by the State Board.

h> Any project with a cost overrun shall not be complete until such time as the State Board determines that the project is complete.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

HEALTH FACILITIES PLANNING BOARD

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Section 1130 APPENDIX A Annual Inflation Adjustments to Review Thresholds

1. Capital Expenditures (Other than Major Medical Equipment):

	Baseline	Inflation Factor	Revised Review Threshold	Effective Date of Revision
\$2,000,000	1.07891	\$2,157,820	October 1, 1991	October 1, 1992
\$2,157,820	1.0217	\$2,716,448	\$2,577,193	October 1, 1993
\$2,216,448	1.06350	\$2,404,337	\$2,404,337	October 1, 1994
\$2,357,193	1.02000	\$2,474,063	\$2,474,063	October 1, 1995
\$2,404,337	1.02500	\$2,548,285	\$2,619,444	October 1, 1997
\$2,474,063	1.03000	\$2,640,024	\$2,672,071	October 1, 1998
\$2,548,285	1.02400	\$2,609,444	\$2,672,071	October 1, 1999
\$2,619,444	1.02400	\$2,672,071	\$2,709,83	October 1, 1999
\$2,640,024	1.01415	\$2,672,071	\$2,709,83	October 1, 1999

2. Major Medical Equipment:

	Baseline	Inflation Factor	Revised Review Threshold	Effective Date of Revision
\$1,000,000	1.11827	\$1,118,272	October 1, 1991	October 1, 1992
\$1,118,272	1.03600	\$1,158,530	\$1,185,176	October 1, 1993
\$1,03600	1.02100	\$1,212,422	\$1,240,318	October 1, 1994
\$1,158,530	1.02299	\$1,212,422	\$1,240,318	October 1, 1995
\$1,185,176	1.02301	\$1,240,318	\$1,270,086	October 1, 1996
\$1,212,422	1.02400	\$1,270,086	\$1,296,086	October 1, 1997
\$1,240,318	1.02100	\$1,296,086	\$1,322,693	October 1, 1998
\$1,270,086	1.02000	\$1,322,693	\$1,341,211	October 1, 1999
\$1,296,086	1.01400	\$1,341,211	\$1,341,211	October 1, 1999

3. Calculation of Inflation Factors:

inflation factors, for capital equipment projects represent the percentage increase or decrease in the related health care costs from July 1st of the preceding calendar year to July 1st of the year for which the adjustment is to be made. The capital threshold is adjusted utilizing the annualized data from the report year as compared to the preceding year. A growth in costs of five percent during this twelve-month period would result in an inflation factor of 1.05.

4. Source of Data:

The capital expenditure threshold adjustment for all items other than major medical equipment is taken from the 57th Annual Edition of the Building Construction Cost Data from the R.S. Means Company, Inc., Kingston MA, Hospitals component of Square Footage, Cubic Feet and

HEALTH FACILITIES PLANNING BOARD

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Percent of Total Costs from "Building Construction Cost Data."

(Source: Amended at 24 Ill. Reg. _____, effective _____)

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENT

Heading of the Part: Narrative and Planning Policies

Amendment

- 1) Code Citation: 77 Ill. Adm. Code 1100
- 2) Section Numbers:
1100-570
1100-770
- 3) Proposed Action:
Repeal
New Section
- 4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3/3960] and the Alternative Health Care Delivery Act [210 ILCS 3]

5) A Complete Description of the Subjects and Issues Involved: Rulemaking is proposed for Part 1100 to incorporate an amendment to the Alternative Health Care Delivery Act through P.A. 91-0065. The amendment establishes the Community-Based Residential Rehabilitation Center alternative health care delivery model. This model is designed to provide rehabilitation and support for persons who experience severe brain injury, who are medically stable, and who no longer require acute rehabilitative care or intense medical or nursing services. The amendment specifies that any provider wanting to furnish this model needs to receive a Certificate of Need (CON) from the Health Facilities Planning Board. Additionally, the State Board proposes to repeal the Substance Abuse/Addiction Treatment Category of Service from CON review. This service is now generally provided on an outpatient basis with inpatient care often provided in medical-surgical or psychiatric beds. The State Board has processed several applications for discontinuation of inpatient substance abuse services and believes deregulation of this service is warranted based upon present industry practices and trends in providing substance abuse/addiction treatment care.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The purpose of the Illinois Health Facilities Planning Act (Planning Act) is to contain health care costs by preventing unnecessary construction or modification of health care facilities and to improve the "ability of the public to obtain necessary health services" and "establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public". The proposed rule changes will establish planning policies for the introduction of the Community-Based Residential Rehabilitation Center model and de-regulate

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the substance abuse/addiction treatment category of service to support flexibility in the development of these services by health care facilities.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking. Interested persons may present their comments concerning this rulemaking by writing within 45 days after this issue of the Illinois Register to:

Donald Jones
Health Facilities Planning Board
Illinois Department of Public Health
Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, Illinois 62761-0001
(217)782-3516
(217)785-4308 (Fax)

800-547-0468 (TTY - for hearing impaired only)

E-mail: djones@idph.state.il.us

All written comments received within 45 days after this issue of the Illinois Register will be considered.

A public hearing will be held on Wednesday, November 17, 1999, at 1:30 p.m. at the Hilton Hotel, 700 East Adams, Springfield, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed repeal and amendment. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

- 1) Each person presenting oral testimony is requested to provide to the State Board a written (preferably typed) copy of such testimony at the time the oral testimony is presented.
- 2) No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time the hearing is open and limit the time of individual testimony based upon the number of persons wishing to testify. All testimony shall conclude at the specific time except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.
- 3) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the State Board may impose such other rules of procedure, including the order of call of witnesses, as necessary.

These rules may have an impact on small businesses. In accordance with

HEALTH FACILITIES PLANNING BOARD

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Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Donald Jones at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Health care facilities that meet the definition of small business.
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999
The full text of the Proposed Amendment begins on the next page:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES
SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

PART 1100

NARRATIVE AND PLANNING POLICIES

SUBPART A: GENERAL NARRATIVE

Section	Introduction
1100.10	Authority
1100.20	Purpose
1100.30	Health Maintenance Organizations (Repealed)
1100.40	Subchapter Organization
1100.50	Mandatory Reporting of Data
1100.60	Data Appendices
1100.70	Institutional Master Plan Hospitals (Repealed)
1100.80	Public Hearings

SUBPART B: GENERAL DEFINITIONS

Section	Introduction
1100.210	Definitions

SUBPART C: PLANNING POLICIES

Section	Need Assessment
1100.310	Staffing
1100.320	Professional Education
1100.330	Public Testimony
1100.340	Multi-Institutional Systems
1100.350	Moder Facilitiess
1100.360	Occupancy-Utilization Standards
1100.370	Systems Planning
1100.380	Quality
1100.390	Location
1100.400	Needed Facilities
1100.410	Discontinuation
1100.420	Coordination with Other State Agencies
1100.430	

SUBPART D: NEED FORMULAS/UTILIZATION TARGETS

Section	Introduction, Formula Components and Planning Area Development
1100.510	

HEALTH FACILITIES PLANNING BOARD

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Policies
Medical-Surgical/Pediatric Categories of Service

Obstetric Category of Service

Intensive Care Category of Service

Comprehensive Physical Rehabilitation Category of Service

Acute Mental Illness Category of Service

Substance Abuse/Addiction Treatment Category of Service (Repealed)

Neonatal Intensive Care Category of Service

Burn Treatment Category of Service

Therapeutic Radiology Equipment

Open Heart Surgery Category of Service

Cardiac Catheterization Services

Chronic Renal Dialysis Category of Service

Non-Hospital Based Ambulatory Surgery

Computer Systems (Repealed)

General Long-Term Care-Sheltered Care Category of Service

Specialized Long-Term Care Categories of Service

Intraoperative Magnetic Resonance Imaging Category of Service

High Linear Energy Transfer (L.E.T.)

Positron Emission Tomographic Scanning (P.E.T.)

Extracorporeal Shock Wave Lithotripsy (Repealed)

Selected Organ Transplantation

Kidney Transplantation

Subacute Care Hospital Model

Postoperative Recovery Care Center Alternative Health Care Model

Children's Respite Care Center Alternative Health Care Model

Community-Based Residential Rehabilitation Center Alternative Health Care Model

APPENDIX A

Applicable Codes and Standards Utilized in 77 Ill. Adm. Code: Chapter II, Subchapter a

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4985, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 15476; amended at 9 Ill. Reg. 3344, effective March 1, 1985; amended at 11 Ill. Reg. 7311, effective April 1, 1987; amended at 12 Ill. Reg. 16079, effective September 21, 1988; amended at 13 Ill. Reg. 16055, effective September 29, 1989; amended at 16 Ill. Reg. 16074, effective October 2, 1992; amended at 18

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Ill. Reg. 2886, effective February 10, 1994; amended at 18 Ill. Reg. 8448, effective July 1, 1994; emergency amendment at 19 Ill. Reg. 1941, effective January 31, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 2885, effective March 1, 1995; amended at 19 Ill. Reg. 10143, effective June 30, 1995; recodified from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2594; amended at 21 Ill. Reg. 14778, effective November 15, 1996; amended at 21 Ill. Reg. 6220, effective May 30, 1997; expedited correction at 21 Ill. Reg. 17201, effective May 30, 1997; amended at 23 Ill. Reg. 2960, effective March 15, 1999; amended at 24 Ill. Reg. 23, effective _____.

SUBPART D: NEED FORMULAS/UTILIZATION TARGETS

Section 1100.570 Substance Abuse/Addiction Treatment Category of Service
[Repealed]

- a) Planning-Areas---Health-Service-Areas
- b) Age-Groups---Ages
- c) Occupancy-Target---90%
- d) Bed-Capacity---Substance/Abuse/Addiction---Treatment---bed-capacity-is-the lesser-of---measured---bed---capacity---or---functional---bed---capacity---per individual---bedroom-
- e) Bed---Need---Determining-Substance---Abuse/Addiction---Treatment---No formula---bed-needed-for---substance---abuse---has---been---developed---it---is---the responsibility---of---the---applicant---to---document---the---numbers---of---beds---needed---in---any---proposed---project---by---completing---with---the---review---Criteria contained-in-177-Ill.-Admin.-Code-1117-

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 1100.770 Community-Based Residential Rehabilitation Center Alternative Health Care Model

- a) Planning Area: The area of Illinois south of Interstate Highway 70
- b) Age Groups: All ages
- c) Occupancy Target: Modernization/Establishment 70% or higher
- d) Bed Capacity: No more than 12 beds per residence
- e) Need Determination: One model for the State of Illinois
- f) Beds approved for this model shall be inventoried as Community-Based Residential Rehabilitation Center beds.

(Source: Added at 24 Ill. Reg. _____, effective _____)

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Processing, Classification Policies and Review Criteria	2) Code Citation: 77 Ill. Adm. Code 1110
3) Section Number: 1110.30	Proposed Action: Amendment Amendment Amendment Amendment New Section Amendment Repeal
4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960] and the Alternative Health Care Delivery Act [210 ILCS 31]	A Complete Description of the Subjects and Issues Involved: Changes in Part 110 to Sections 1110.30, 1110.40, 1110.60, and the addition of Section 1110.65 are proposed to create a more flexible and streamlined process for reviewing applications through the Certificate of Need (CON) program. In July and August, the State Board conducted several forums with health care facilities' representatives to address concerns and to receive input on how the CON program could be improved. Many suggestions were received and there are many areas that require further study and evaluation. However, there was universal support to eliminate certain review criteria and procedures that appear unnecessary given the recent changes in the health care delivery system as a result of reimbursement changes are geared toward revising and reducing many review criteria and placing greater focus or emphasis upon the financial review criteria. Sections 1110.520, 1110.810, 1110.820, and 1110.830 deal with the Substance Abuse/Addiction Treatment Category of Service. Sections 1110.810, 1110.820, and 1110.830 are proposed for repeal since this service is generally provided on an outpatient basis with inpatient care often provided in medical-surgical or psychiatric beds. Additionally, sections 1110.2810, 1110.2820, 1110.2830, 1110.2840, and 1110.2850 are proposed to incorporate the amendments to the Alternative Health Care Delivery Act through P.A. 91-0065. The amendment establishes the Community-Based Residential Rehabilitation Center alternative health care delivery model. This model is designed to provide rehabilitation and

HEALTH FACILITIES PLANNING BOARD

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support for persons who experience severe brain injury, who are medically stable, and who no longer require acute rehabilitative care or intense medical or nursing services. The amendment specifies that any provider wanting to furnish this model needs to receive a Certificate of Need from the Health Facilities Planning Board. Section 1110.1130 is also being amended to provide fewer review criteria for the establishment or expansion of therapeutic radiology services. The State Board believes this service has become an integral part of many hospital cancer treatment programs and that the cost for equipment has very often been below the major medical equipment review threshold. There has been opposition by many providers to deregulate this service from CON review. However, the State Board believes reducing or changing the review criteria will afford greater flexibility in allowing facilities to develop this service and to increase access for the public.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporation by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: The purpose of the Illinois Health Facilities Planning Act (Planning Act) is to contain health care costs by preventing unnecessary construction or modification of health care facilities and to improve the "ability of the public to obtain necessary health services" and "establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public." The proposed rule changes will establish the review criteria for evaluating Community-Based Residential Rehabilitation Center applications and eliminate several review criteria for certain types of projects and focus the review upon the financial viability and economic feasibility of applicant entities. The changes are intended to alleviate the requirements of addressing criteria that may not substantially impact upon the need for a project and to focus upon containing health care cost through demonstration of financial and economic feasibility.

11) Time, Place and Manner: In which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking by writing within 45 days after this issue of the Illinois Register to:

Donald Jones
Health Facilities Planning Board
Illinois Department of Public Health

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, Illinois 62761-0001
(217) 782-3516
(217) 785-4308 (fax)
800-547-0466 (TTY - for hearing impaired only)
E-mail: dioness@dfph.state.il.us

All written comments received within 45 days of this issue of the Illinois Register will be considered.

A public hearing will be held on Wednesday, November 17, 1999, at 1:30 p.m. at the Hilton Hotel, 700 East Adams, Springfield, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed changes. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

- 1) Each person presenting oral testimony is requested to provide to the State Board a written (preferably typed) copy of such testimony at the time the oral testimony is presented.
- 2) No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time the hearing is open and limit the time of individual testimony based upon the number of persons wishing to testify. All testimony shall conclude at the specific time except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.
- 3) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the State Board may impose such other rules of procedure, including the order of call of witnesses, as necessary.

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Donald Jones at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small business, small municipalities and not for profit corporations affected: Health care facilities that meet the definition

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of small business.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begin on the next page:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER II: HEALTH FACILITIES

SUBCHAPTER A: ILLINOIS HEALTH CARE FACILITIES PLAN

PLANNING BOARD

PROCESSING, CLASSIFICATION POLICIES AND REVIEW CRITERIA

SUBPART A: GENERAL APPLICABILITY AND PROJECT CLASSIFICATION

Section	Introduction to Part 1110
1110.10	Projects Required to Obtain a Permit (Repealed)
1110.20	Processing and Reviewing Applications
1110.30	Classification of Projects
1110.40	Recognition of Services Which Existed Prior to Permit Requirements
1110.50	Recognition of Non-Hospital Based Ambulatory Surgery Category of Service
1110.55	Master Design Projects
1110.60	Master Plan or Capital Budget Projects
1110.65	

SUBPART B: REVIEW CRITERIA--DISCONTINUATION

Section	Introduction
1110.110	Introduction
1110.120	Discontinuation--Definition
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Section 1110.1310	Introduction
1110.1320	Cardiac Catheterization--Definitions
1110.1330	Cardiac Catheterization--Review Criteria
	SUBPART O: CATEGORY OF SERVICE REVIEW CRITERIA--CHRONIC RENAL DIALYSIS
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1110.1420	Chronic Renal Dialysis--Definitions
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1110.1520	Non-Hospital Based Ambulatory Surgery--Definitions
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1110.1820	Specialized Long-Term Care--Review Criteria	1110.2420	Kidney Transplantation--Review Criteria
1110.1830	Specialized Long-Term Care--Review Criteria	1110.2430	Kidney Transplantation--Review Criteria
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SUBPART W: CATEGORY OF SERVICE REVIEW CRITERIA--SHOCK WAVE LITHOTRIPSY			
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1110.2120	Posterior Emission Tomographic Scanning (P.E.T.)--Definitions	1110.2650	Post surgical Recovery Care Center Alternative Health Care
1110.2130	Posterior Emission Tomographic Scanning (P.E.T.)--Review Criteria	1110.2650	Model--Project Completion
SUBPART X: CATEGORY OF SERVICE REVIEW CRITERIA--EXTRACORPORAL SHOCK WAVE LITHOTRIPSY			
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Planning Act [20 ILCS 39/60].

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27, 1995; emergency amendment at 19 Ill. Reg. 1527, effective October 20, 1995, for a maximum of 150 days; recodified from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2600; amended at 20 Ill. Reg. 4134, effective March 22, 1996; amended at 20 Ill. Reg. 1478, effective November 15, 1996; amended at 23 Ill. Reg. 2987, effective March 15, 1999; amended at 24 Ill. Reg. _____, effective _____.

Model - Project Completion
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REHABILITATION CENTRE ALTERNATIVE HEALTH CARE MODEL

Introduction	Community-Based Health Care Model	Residential Rehabilitation Center	Alternative
110-2810	Community-Based Health Care Model - Definitions	Residential Rehabilitation Center	Alternative
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110-2830	Community-Based Health Care Model - Residential Rehabilitation Center	Residential Rehabilitation Center	Alternative
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B PART A: GENERAL APPLICABILITY AND PROJECT CLASSIFICATION

Section 1110-30 Processing and Reviewing Applications

a) The procedures for processing and reviewing all applications for permit are specified in 77 Ill. Admin. Code 1130 (Health Facilities Planning Procedural Rules).

All applications will be reviewed and evaluated on an individual basis in order to determine compliance with all applicable general review criteria—found in Part 1130—and 1120—in effect at the time the application is deemed complete.

Applications for permit shall be subject to the need figures set forth in the update to the inventory referred to in Section 1160-007—made most recently prior to the date the State Board takes action on the application—prior to the purpose of this subsection—State Board actions includes the following: the approval or issuance of a notice of intent to deny or deny of an application.

All applications are subject to public notice requirements under Section 8 of the Act—all evidence submitted pursuant to the provisions of Part 1120 on an application shall be taken into account in the determination of competence or noncompetence of an applicant with specific review criteria—the State Agency shall utilize such

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 1, 1941.

Section 1110.40 Classification of Projects

When an application for permit has been received by the State Board, the Executive Secretary shall classify the project into one of the following categories:

When an application for permit has been received by the State Board, the Executive Secretary shall classify the project into one of the following classifications:

- a) Emergency Classification
 - 1) Emergency projects are subject to the review process and are those construction or modification projects that affect the inpatient operation of a health care facility and are necessary because there exists one or more of the following conditions:
 - A) An imminent threat to the structural integrity of the building; or
 - B) An imminent threat to the safe operation and functioning of the mechanical, electrical, or comparable systems of the

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2) Since the State Board recognizes that applications for emergency projects must be processed as expeditiously as possible, all applications will be reviewed in accordance with the following review criteria:

- The project is indeed an emergency project as defined in subsection (a)(1)(A) or (B) above; and
- Failure to proceed immediately with the project would result in closure or impairment of the inpatient operation of the facility; and
- The emergency conditions did not exist longer than 30 days prior to requesting the emergency classification.

b) Non-Substantive Review Classification. Non-substantive projects are those establishment, construction, modification or equipment projects which consist solely of the characteristics detailed in this subsection. Applications shall be evaluated only against the following applicable review criteria of the Sections or Parts specified.

Applicable Project Type

Review Criteria

Section 110.230 and Part 1120

Establishment of long-term care facilities licensed by the Department of Children and Family Services

Discontinuation of beds or category of service

Changes of ownership

Long-term care for the Developmentally Disabled Categories of Service

Acute Care Beds Certified for Extended Care Category of Service as defined by the Health Care Financing Administration (42 CFR 405.471 (1987))

Section 110.230(b),
110.240, and Part 1120

Section 110.320(b); Section 110.1830; and Part 1120

Section 110.230(a),
(c), (e); and Part 1120

Section 110.230; Section 110.1830; and Part 1120

Section 110.230(a),
(c), (e); and Part 1120

Section 110.230; Part 110.1430; and Part 1120

Residential units and apartments

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	Computers	Part 1120
	Projects intended solely to provide care to patients suffering from Acquired Immunodeficiency Syndrome (AIDS) or related disorders	Section 110.230(e) and (f)
	Projects to comply with Life Safety Code requirements	Section 110.420(a), and (b); and Part 1120
	Parking Facilities	Section 110.230(e) and (f) and Section 110.420(b); and Part 1120
	Administration and volunteer offices	Section 110.230(c) and (e); and Part 1120
	Restaurants, cafeterias, snack bars and all other non-patient dining areas	Section 110.230(c) and (e); Section 110.420(b); and Part 1120
	Moderization of structural components-roof replacement	Section 110.230(e) and (f); Part 1120
	Boiler-repair-or-replacement (does-not-include-boiler-plant)	Section 110.230(e) and (f); Section 110.420(b); and Part 1120
	Replacement of diagnostic or therapeutic equipment with comparable equipment to be utilized for a similar purpose	Section 110.230(e) and (f); Section 110.420(b); and Part 1120
	Medical office buildings, fitness centers, and other non-inpatient space	Section 110.230(c), (d) and (e); and Part 1120
	Epidotized-projects-which-are considered-security-maintenance such-as-carpetting-tiles-replacement-or-furniture-purchase	Section 110.230(e) and (f); and Part 1120
	Boiler repair or replacement	Part 1120

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(does not include boiler plant):

Buildings Bridges, tunnels, walkways, elevators or other structures designed to provide access between or through existing buildings; capitalized projects that are considered basically maintenance, such as carpeting, tile replacement or furniture purchase; shapes; computers; educational facilities; including auditoriums, classrooms, student housing; emergency transportation equipment; gift shops, news stands and other retail space; mechanical systems for heating, ventilation and air conditioning; loading docks; telephone systems

Community-Based Residential Alternative Health Care Model

c) Substantive Review Classification. All projects that do not include components specified in subsection (b) shall be subject to review and shall be classified substantive unless they are found to be emergency projects as delineated in subsection (a) above.

d) Classification of projects with both non-substantive and substantive components. Projects which include both substantive and non-substantive components shall be classified as substantive.

e) Classification Appeal. Appeal of any classification may be made to the State Board at the next scheduled State Board meeting.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1110.60 Master Design Projects

a) Definition

Master Design Project means a proposed project solely for the planning and/or design costs associated with an institutional master plan or with one or more future construction or modification projects. Project costs include: preplanning costs, site survey and soil investigation costs, architects fees, consultant fees and other fees related to planning or design. The master design project is for planning and design only and shall not contain any construction elements.

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b) Review Coverage

Master design projects shall be classified as substantive. Such projects shall be reviewed to determine the financial and economic feasibility of the master design project itself, the need for the proposed master plan or for the future construction or modification project(s), and the financial and economic feasibility of the proposed master plan or of the future construction or modification project(s). Findings concerning the need for beds and services and financial feasibility made during the review of the master design project are applicable only for the master design project. Approval by the State Board of a master design project does not obligate approval or positive findings on future construction or modification projects implementing the design. Future applications including those involving the replacement or addition of beds are subject to the review criteria and bed need in effect at the time of the board review.

c) Applicable Review Standards

1) The estimated project costs of a master design project shall be subject to review only under the applicable review criteria of 77 Ill. Adm. Code 110. Admin. Code 1120.

2) The master plan or the future construction or modification project(s) proposed pursuant to the master design project shall be subject to the applicable review criteria of 77 Ill. Adm. Code 1120 and the following review criteria found in this Part:

Section 1110.230(a)	Background of Applicant
Section 1110.230(b)	Alternatives to the Proposed Project
Section 1110.230(c)	Additional General Review Criteria for Master Design and Related Projects Only
Section 1110.320(a)	Section 1110.320(a) Location
Section 1110.420(b)	Section 1110.420(b) Allocation of Additional Beds
Section 1110.530(a)	Section 1110.530(a) Unit Size
Section 1110.630(a)	Section 1110.630(a) Facility Size
Section 1110.730(a)	Section 1110.730(a) Unit Size

Section 1110-0006(b) --- Establishment or Addition of Substance Abuse/Addiction Treatment Beds

Section 1110.930(b) Letter of Agreement

Section 1110.1030(b) Unit Size

Section 1110.1130(e) Tumor Registry

Section 1110.1230(b) Establishment of Open Heart Surgery

Section 1110.1330(b) Establishment or Expansion of Cardiac Catheterization Service

Section 1110.1330(d) Modernization Equipment

Section 1110.1430(b) Minimum Size of Renal Dialysis Center or Renal Dialysis Facilities

Section 1110.1730(a) Facility Size

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Section 110.1730(c) Zoning
 Section 110.1830(a) Facility Size
 Section 110.1830(d) Recommendation from State Department
 Section 110.1830(e) Zoning
 Section 110.1930(f) Multi-institutional Systems
 Section 110.2030(a) Initial Introduction
 Section 110.2130(d) Location
 Section 110.2330(a) Establishment of a Program

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 110.65 Master Plan or Capital Budget Projects

a) Definition
Master Plan or Capital Budget Project means a series of proposed capital expenditures and other transactions that are to be initiated by or on behalf of a health care facility over a given period of time that does not exceed 4 consecutive calendar months. The expenditures or transactions may or may not be related or interdependent and may be undertaken by one or more construction contracts, leases, or other forms of obligation.

b) Review Coverage
Master Plan or Capital Budget projects shall be classified as substantive and be reviewed for conformance with the applicable review criteria of this Part and 77 Ill. Adm. Code 1120.

c) Submission of Application for Permit
The submission of an application for permit for a Master Plan or Capital Budget project is optional. An applicant may submit separate applications for permit for any individual project or transaction that in and of itself requires a permit.

d) Obligation, Completion, Alteration

All expenditures or transactions that are components of a Master Plan or Capital Budget shall be considered obligated upon receipt of the notarized certification of obligation described at 77 Ill. Adm. Code 1130.140. All components of the Master Plan or Capital Budget project must be completed in accordance with the time frames specified in the application for permit unless a renewal has been granted by the State Board. Alterations to a Master Plan or Capital Budget project are subject to the provisions of 77 Ill. Adm. Code 1130.750.

(Source: Added at 24 Ill. Reg. _____, effective _____)

SUBPART F: CATEGORY OF SERVICE REVIEW CRITERIA—MEDICAL/SURGICAL, OBSTETRIC, PEDIATRIC AND INTENSIVE CARE
 Section 110.520 Medical/Surgical, Obstetric, Pediatric and Intensive

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Care—Definitions

a) Medical/Surgical
 1) "Medical-Surgical Service" means a category of service pertaining to the medical-surgical care performed at the direction of a physician in behalf of patients by physicians, dentists, nurses and other professional and technical personnel. For purposes of this Subchapter, the medical-surgical category of service includes such subcategories of service as medical, surgical, ophthalmology, intermediate intensive care, tuberculosis, gynecology (outside obstetric (OB) department), research, eyes-ears-nose-and-throat, orthopedic, neurology, cardio-thoracic-vascular, trauma, inpatient renal dialysis, special care units, substance abuse/addiction treatment, dental and urology. The medical-surgical category of service does not include the following categories of service and their subcategories:

- A) Obstetric Service;
- B) Pediatric Service;
- C) Intensive Care Service;
- D) Rehabilitation Service;
- E) Acute Mental Illness Treatment Service;
- F) Substance Abuse/Addiction Treatment Service;
- G) Neonatal Intensive Care Service;
- H) Burn Treatment Service;
- I) General Long-Term Care Categories of Service; and
- J) Specialized Long-Term Care Categories of Service.

2) "Medical-Surgical Unit" means an assembly of inpatient beds and related facilities in which medical-surgical services are provided to a defined and limited class of patients according to their particular medical care needs.

b) Obstetrics

1) "Combined Maternity and Gynecological Unit" means an entire facility or a distinct part of a facility which provides both a program of maternity care (as defined in subsection (b)(3) below) and a program of obstetric gynecological care (as defined in subsection (b)(5) below) and which is designed, equipped, and operated in accordance with the requirements of the Hospital Licensing Act [210 ILCS 85].

2) "Fertility Rate" means projections of population fertility based upon resident birth occurrence as provided by IDPH.

3) "Maternity Care" means a subcategory of obstetric service related to the medical care of the patient prior to and during the act of giving birth either to a living child or to a dead fetus and to the continuing medical care of both patient and newborn infant under the direction of a physician in behalf of the patient by physicians, nurses, and other professional and technical personnel.

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4) "Maternity Facility or Unit" means an entire facility or a distinct part of a facility which provides a program of maternity and newborn care and which is designed, equipped, organized and operated in accordance with the requirements of the Hospital Licensing Act.

5) "Obstetric Gynecological Care" means a subcategory of obstetric service where medical care is provided to clean gynecological, surgical, or medical cases which are admitted to a postpartum section of an obstetric unit in accordance with the requirements of the Hospital Licensing Act.

6) "Obstetric Service" means a category of service pertaining to the medical or surgical care of maternity and newborn patients or medical or surgical cases which may be admitted to a postpartum unit.

c) Pediatrics

1) "Designated Pediatric Beds" means beds within the facility which are primarily used for pediatric patients and are not a component part of a distinct pediatric unit as defined in subsection (c)(2) below.

2) "Pediatric Facility or Distinct Pediatric Unit" means an entire facility or a distinct unit of a facility, where the nurses' station services only that unit, which provides a program of pediatric service and is designed, equipped, organized and operated to render medical-surgical care to the 0-14 age population.

3) "Pediatric Service" means a category of service for the delivery of treatment pertaining to the non-intensive medical-surgical care of a pediatric patient (0-14 years in age) performed at the direction of physician in behalf of the patient by physicians, dentists, nurses, and other professional and technical personnel.

d) Intensive Care

1) "Intensive Care Service" means a category of service providing the coordinated delivery of treatment to the critically ill patient or to patients requiring continuous care due to special diagnostic considerations requiring extensive monitoring of vital signs through mechanical means and through direct nursing supervision. This service is given at the direction of a physician in behalf of patients, dentists, nurses, and other professional and technical personnel. The intensive care category of service includes the following subcategories; medical Intensive Care Unit (ICU), surgical ICU, coronary care, pediatric ICU, and combinations of such ICU. This category of service does not include intermediate intensive or coronary care and special care units which are included in the medical-surgical category of service.

2) "Intensive Care Unit" means a distinct part of a facility which provides a program of intensive care service and which is designed, equipped, organized and operated to deliver optimal

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medical care for the critically ill or for patients with special diagnostic conditions requiring specialized equipment, procedures and staff, and which is under the direct visual supervision of a qualified professional nurses, staff.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART I: CATEGORY OF SERVICE REVIEW CRITERIA—SUBSTANCE ABUSE/ADDITION TREATMENT

Section 1110.810 Introduction (Repealed)

Subpart—I—contests—Review—Criteria—which—pertain—to—the—Substance Abuse/Addiction Treatment—Category—of—Service—Phase—Review—Criteria—are utilized—in—addition—to—the—General—Review—Criteria—outlined—in—Subpart—C—and any other applicable Review Criteria outlined in Subparts B and B-

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 1110.820 Substance Abuse/Addiction Treatment—Definitions (Repealed)

Substance—Abuse/Addiction—Treatment—Facility—or—Health—means—a—facility—of—an—district—physically—identifiable—unit—in—a—facility—which—is—operated—by—the—State—or—which—is—licensed—by—the—operator—in—accordance—with—the—Hospital—licensing—Act—or—the—Nursing Home—Care—Reform—Act—of—1979—and—which—provides—a—service—of—substance abuse—treatment;

Substance—Abuse/Addiction—Treatment—Service—means—a—category—of—service—that—provides—initial—detoxification—and—rehabilitation—case—for—a—person—who—suffers—from—addiction—to—drugs—and/or—alcohol—and related—mental—physical—conditions—or—that—priorities—treatment—and rehabilitation—case—for—a—person—who—suffers—from—other—addictive conditions;

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 1110.830 Substance Abuse/Addiction Treatment—Review (Repealed)

a) Detoxification—Services—Review—Criteria—Services—are—provided—or—will—be—provided under—the—direction—of—a—certified—substance—abuse/addiction—treatment—counselor—beds—unit—for—detoxification—not—located—within—a substance—abuse—unit—are—not—counted—against—unit—but—total—

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b) Documentation--shall--consist--of--a--narrative--as--to--how--and--where detoxification--is--performed--

b) Establishment--or--Addition--of--Substance--Abuse/Addiction--Treatment Beds--Review--Criterion--The--applicant--must--document--that--the proposed--project--involves--the conversion--of--excess--beds--from--another category--of--service--Documentation--shall--consist--of--identification--of all--patient--rooms--affected--and--a--revised--floor--plan--for--the--facility--Supportive--Services--Review--Criterion--The--applicant--must--document that--outpatient--and--intermediate--services--and--case--and--diagnostic--evaluations--medication--psychiatry--and--psychological--and--social services--care--vocational--rehabilitation--and--career--counseling--will--be provided--Documentation--shall--consist--of--a--narrative--describing--the scope--and--nature--of--support--services--provided--and--the--manner--in--which services--will--be--provided--

c) Tenant--Occupancy--Review--Criterion--The--applicant--must--document that--the--proposed--percent--of--beds--will--operate--at--an--average--occupancy rate--of--98--percent--by--documenting--the--projected--date--and--the correspondence--with--physicians--not--affiliated--to--the--written--and--employer--and--employee--organizations--which--demonstrate--that--these services--are--currently--experiencing--difficulties--obtaining--inpatient Substance Abuse/Addiction Treatment Services--Such--correspondence--must indicate--where--referrals--or--patient--placements--are--being--made currently--why--these--arrangements--cannot--be--continued--and--also--whether additional--patients--will--be--admitted--to--where--one--is--currently--unavailable--will--be serviced--by--the--project--

c) Community--Programs--Review--Criterion--The--applicant--must--document that--the--inpatient--service--will--be--a--component--part--of--a--comprehensive outreach--or--community--treatment--program--or--system--Documentation shall--consist--of--written--agreements--with--providers--located--within--60 minutes--travel--time--under--normal--driving--conditions--from--the proposed--project--Such--written--agreement--must--include--the--following:

c) A--specific--process--for--linking--patients--to--needed--ambulatory--and aftercare--services--

c) Designated--staff--members--or--points--of--contact--between--the patient--and--facilities--and/or--professionals--

f) Contact--with--the--Department--of--Human--Services--Review--Criterion--The--applicant--must--document--contact--with--the--Department--of--Human--Services--Documentation--must--include--proof--that--request--has--been submitted--to--that--Department--to--review--the--Project--a--relationship--to the long--range--goals--and--objectives--of--that--Department--Such--a--request must--be--made--by--certified--mail--return--receipt--requested--and--must--occur within--a--60--day--period--prior--to--the--submission--of--this--application--

g) Distinct--Unit--Review--Criterion--The--applicant--must--document--that the proposed--unit--will--be--self--contained--physically--distinct--have--an identifiable--staff--and--comply--with--all--appropriate--existing--licensure

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standards--of--the--agency--Documentation--shall--consist--of--a--narrative which--identifies--the--relationship--of--the--unit--to--the--other--facility services--and--how--the--unit--will--be--operated--in--order--to--comply--with licensure--requirements--

h) Distinct--Units--Children/Adolescents--Review--Criterion--The applicant--must--document--that--treatment--of--children--or--adolescents--will occur--in--a--unit--separate--and--distinct--from--any--units--for--the--treatment of--addicts--Documentation--shall--include--line--drawings--delineating the configuration--of--the--unit--and--certification--that--the--unit--will--be separate--and--distinct--

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

SUBPART I: CATEGORY OF SERVICE REVIEW CRITERIA--THERAPEUTIC RADIOLOGY

Section 1110.1130 Therapeutic Radiology--Review Criteria

a) "Variances to Computed Need for Additional Megavoltage Equipment" - Review Criteria

1) The State Board recognizes that in some instances facilities may be operating existing megavoltage equipment at utilization levels which exceed recommended levels. Therefore, the State Board may approve an application for additional megavoltage equipment at a facility which can document the following:

A) that its case load during the latest 12 month period for treatment has averaged in excess of 11,250 treatments per piece of existing megavoltage equipment, and that if the additional equipment is a "gamma" knife

B) ~~or--additional--equipment--will--result--in--an--average--of--300--annual--treatment--consecutive--per--year--or--variance--of--existing--equipment--within--six--months--after--acquisition--of--the--additional--equipment--and--6)--that--there--are--no facilities--within--30--45--minutes--travel--time--under--normal driving--conditions--from--the--applicant--facility--which--can--or will--absorb--the--increased--projected--case--load--of--the applicant--facility.~~

2) Accessibility Variance. The variance is recognized by the State Board as a basis for granting approval to a project which is not in accord with computed need for the therapeutic radiology category of service:

A) Entitlement to this variance is dependent on the proposed project's documentation that the proposed project will be providing a therapeutic radiology category of service which is not readily accessible to the general population of the given planning area. Factors affecting accessibility include, but are not limited to:

i) Restrictive admission policies by facilities currently

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providing the service in the area; and/or location of existing services requires an excessive amount of travel time (more than 45 minutes under normal driving conditions) for area residents to receive service.

b) In addition to the above, the proposed project must achieve, within the first year of operation, the target occupancy for the service and that there is an available number of patients receiving the facility's services to meet this level.

b) Allocation of Additional-Negavoltage-Equipment-Based-on-Patient-Needs

Where-the-Agency-indicates-a-need-for-additional-negavoltage equipment--such--equipment--will--be--allocated--to--facilities--which--currently--have--negavoltage--equipment--which--is--being--utilized--to provide at-least-300-annual-treatment-courses per-year per-machine--and which--can--demonstrate--that--the-new--equipment--will--service--case--load of-is--60--patients-a-day--within-six--months--after--the--equipment--is acquired--without--reducing--utilization--of--existing--equipment--below--the 300--annual--treatment--courses--per--year--in--the--event--that--no facilities--exist--or--can--meet--the--above--criteria--in--the--State--Board--will approve--an--application--for--the--establishment--of--new--facilities--or--the expansion--of--an--existing--facility--which--currently--provides--negavoltage services--in--areas--which--have--underutilized--facilities--no--addition--of--equipment--will--be--approved--in--any--facility--within--30--minutes--travel-time--of--an--underutilized--facility.

c) Support Services--Review-Criteria

Any--applicant--proposing--to--expand--modify--or--establish--a--therapeutic radiation--service--must--document--that--each--cancer--patient--has--or--will have--access--to--specialty--services--which--can--contribute--to--the diagnosis--and--treatment--of--his--or--her--disease--

d) Class-of-Additional-Negavoltage-Equipment--Review-Criteria

State--Board--recognizes--that--minimum--recommendation--for negavoltage--equipment--is--300--annual--treatment--courses--per--year irrespective--of--the--size--or--capability--of--the--equipment--;--in--order--to prevent--unnecessary--duplication--of--certaining--classes--of--equipment--;--the following--principles--apply--to--the--acquisition--of--additional equipment:

d) Additional-Class-A--Equipment--Review-Criteria

that provide a full range of diagnostic and therapeutic radiology services--and--as--one--of--the--primary--functions--conducts--teaching

and--training--programs--for--such--specialties--as--radiobiologists

radiation--therapists--radiation--biologists--radiation--physicists

and--associated--technical--staff--;--Such--equipment--may--be--acquired only--if--the--facility--can--document--that--its--existing--negavoltage equipment--is--being--appropriately--utilized--(300--annual--treatment courses--per--year--per--piece--of--equipment)--and--that--the--facility's case--load--and--mix--of--cancer--patients--is--such--that--the

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capabilities--of--its--existing--equipment--cannot--adequately--treat the--patients--in--the--facility--and--therefore--the--facility--is--not--able--to patients--needing--such--additional--equipment--will--be--15--20--patients a--day--(within--six--months--after--the--equipment--is--acquired)--and that--acquisition--of--the--additional--equipment--will--not--result--in--a reduction--in--utilization--of--other--existing--equipment--below--the recommended--300--annual--treatment--courses--per--year--

Additional-Class-B--equipment--may--be--acquired--only--if--the--facility can--document--that--its--existing--negavoltage--equipment--is--being appropriately--utilized--(300--annual--treatment--courses--per--year--per piece--of--equipment)--and--that--the--facility's--case--load--and--mix--of cancer--patients--is--such--that--the--capabilities--of--its--existing equipment--cannot--adequately--treat--the--patients--;--the--facility must--document--that--its--case--load--of--patients--needs--such additional--equipment--will--be--15--20--patients--a--day--(within--six months--after--the--equipment--is--acquired)--and that--acquisition--of the--additional--equipment--will--not--result--in--a--reduction--in utilization--of--other--existing--equipment--below--the--recommended--300 annual--treatment--courses--per--year--

A) Class-C--equipment--will--be--added--to--existing--facilities--which can--document:

- i) that--existing--negavoltage--equipment--is--being--appropriately utilized--(300--annual--treatment--courses--per--year--per--piece--of--equipment)--and that--the--capabilities--of--its--existing--equipment--cannot adequately--treat--the--patients--;--and/or
- ii) the--acquisition--of--the--additional--equipment--will--not result--in--a--reduction--in--utilization--of--existing equipment--;--and/or
- iii) the--proposed--project--is--justified--upon--the apparent--documenting--that--the--proposed--project--will result--in--an--improvement--of--distribution--or accessibility--of--services--;

B) Facilities--which--do--not--have--negavoltage--equipment--must--meet only--conditions--in--subsections--A(iii)--and/or--B(iii)--and/or A(iv)--above:

- a) uRamos Registry--Review-Criteria
- g) State Board--Recognizes--the--need--to--gather--and--share--information regarding--cancer--incidence--and--treatment--;--wherefore--no--application for--permit--will--be--approved--unless--documentation--is--provided indicating--that:

- 1) For--existing--facilities--providing--therapeutic--radiology--a--cancer or--tumor--registry--is--currently--functioning--;--or
- 2) For--facilities--proposing--the--establishment--of--therapeutic radiology--a--cancer--or--tumor--registry--will--be--established--;

f) "Staffing"--Review Criteria

1) A proposed project for therapeutic radiology equipment must document that it has or can meet the following minimum staffing

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Criteria based upon the Committee for Radiation Therapy Studies report to the National Cancer Institute. Facilities with Megavoltage Capability

Personnel	Availability
Radiation Oncologist	Full-time
Physicist	Full-time
Radiation Therapy Technologist (at least one per megavoltage unit)	Full-time
2) In addition, the facility must have available the following personnel as needed: nurse, dosimetrist, radiobiologist, machinist and mold technician.	
3) It should be noted that the State Board encourages the Agency and the Hospital Licensing Board to develop licensure standards for staffing of therapeutic radiology services. The staffing standards detailed in this Section shall be utilized by all reviewing agencies unless standards are adopted and promulgated by the Agency in accordance with the Illinois Administrative Procedure Act" for therapeutic radiology services in which case those standards shall be utilized.	

4) "Modernization or Replacement of Existing Equipment" - "Review Criteria" - "The State Board recognizes the need for facilities to maintain equipment which is modern and up-to-date and which will enable patients to receive the highest quality of care possible in reviewing applications for replacement of radiation therapy equipment the following principles apply:

4+) The State Board will not approve any applications for replacement of megavoltage equipment which is not being utilized at facilities within 45 minutes travel time under normal driving conditions within recommended standards per year when other facilities with the applicant facility have megavoltage equipment which is used underutilized and which could absorb the applicant's existing case load.

4+) For equipment which is to be replaced by a unit of the same class, the applicant must demonstrate that replacement is necessary because of such conditions as the existing unit being insufficient or too costly to maintain.

4+) For megavoltage equipment which is to be replaced by a unit of a different class, the applicant must demonstrate that the current unit is operating at approximately 300 treatment courses per year and that the difference exists as needed because the existing equipment cannot adequately treat its current and projected case load and mix of cancer patients.

4+) The State Board will not approve applications for permit unless documentation is provided which indicates that the replacement

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equipment will operate at an appropriate level of utilization 300 treatment courses per year. No exception will be allowed unless the proposed project can be justified based upon the applicant documenting that the proposed project will result in an improvement or distribution or accessibility of services(s)."

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART AC: CATEGORY OF SERVICE REVIEW CRITERIA -- COMMUNITY-BASED RESIDENTIAL REHABILITATION CENTER ALTERNATIVE HEALTH CARE MODEL

Section 1110.2810 Introduction

a) Subpart AC of this Part contains review criteria that pertain to the community-based residential rehabilitation center category of service. The community-based residential rehabilitation center category of service is a demonstration program that is authorized by the Alternative Health Care Delivery Act [210 ILCS 3]. As the purpose of the demonstration project is to evaluate the community-based residential rehabilitation model for quality factors, access and the impact on health care costs, the model approved for the category of service will be required to periodically submit data necessary for evaluating the model's effectiveness. Data collected shall be provided to the Department of Public Health and the Illinois State Board of Health for use in their evaluation of the model.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 1110.2820 Community-Based Residential Rehabilitation Center Alternative Health Care Model - Definitions

a.) "Community-Based Residential Rehabilitation Center" is a designated site that provides rehabilitative care or support, or both, for persons who have experienced severe brain injury, who are medically stable, and who no longer require acute rehabilitative care or intense medical or nursing services. The average length of stay in a community-based residential rehabilitation center shall not exceed 4 months. [210 ILCS 3/35]

b.) "Community-Based Residential Rehabilitation" services include, but are not limited to, case management, training, and assistance, with activities of daily living, nursing, consultation, traditional therapies (physical, occupational, speech), functional interventions in the residence and community (job placement, shopping, banking, recreation), counseling, self-management strategies, productive activities, and multiple opportunities for skill acquisition and

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c) "Community-Based Residential Rehabilitation Model" means a category of practice throughout the day. [210 ILCS 3/35] A service for the provision of community-based residential rehabilitation care and services.

(Source: Added at 24 Ill. Reg. _____)

- a) Staffing--Review Criterion
The applicant must furnish a detailed staffing plan that provides staff qualifications; identification of the number and type of staff positions dedicated to the model; how special staffing circumstances will be handled; staffing patterns for the proposed community-based residential rehabilitation center; and the manner in which non-dedicated staff services will be provided.
- b) Mandated Services--Review Criterion
The applicant must document that the community-based residential rehabilitation center has the capability of providing the minimum range of services required under the Act as referenced in Section 110/280(b). Documentation shall consist of a narrative of how such services will be provided.

c) Unit Size--Review Criterion
The applicant must document the number and location of all beds in the model. The applicant must also document that the number of community-based residential rehabilitation beds shall not exceed 12 beds in any one residence as defined in Section 35 of the Act [210 ILCS 3/35]. No community-based residential rehabilitation center alternative health care delivery model shall exceed 100 beds.

d) Utilization--Review Criterion
The applicant must document that the target utilization for this model (as defined at 77 Ill. Adm. Code 1100-770(c)) will be achieved by the second year of the model's operation. Documentation shall include, but not be limited to, historical utilization trends, population growth, expansion of professional staff or programs and the provision of new procedures that increase utilization.

Background of Applicant--Review Criterion

The applicant must demonstrate experience in providing the services required by the model. Additionally, the applicant must document that the programs provided in this model have been accredited by the Commission on Accreditation of Rehabilitation Facilities as a Brain Injury Community-Integrative Program for at least three of the last five years.

(Source: Added at 24 Ill. Reg. _____)

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Section 1110.2840 Community-Based Residential Rehabilitation Center Alternative Health Care Model - State Board Review

In order for an application for the community-based residential rehabilitation center alternative health care model to be approved, the applicant must comply with all criteria established in 77 Ill. Adm. Code 1110.2840. Competing applications within a planning area that comply with all criteria shall be evaluated by the State Board to determine which application best implements the goals of the Health Facilities Planning Act and the Alternative Health Care Delivery Act.

(Source: Added at 24 Ill. Reg. _____)

Section 1110.2850 Community-Based Residential Rehabilitation Center Alternative Health Care Model - Project Completion

Since the purpose for the establishment of this category of service is to evaluate the alternative model for effectiveness, such projects are not complete until such time as the model is evaluated and the decision made to adopt or not adopt the model as an ongoing licensed level of service separate from an alternative delivery model. A permit will not be required from a Community-Based Residential Rehabilitation Alternative Health Care Model that proposes to cease participation in the Demonstration Program. If the facility proposes to discontinue the model, written notice containing the reasons for the discontinuation must be received by the State Board at least 90 days prior to the anticipated discontinuation. The project shall be considered abandoned as of the date the Agency receives notice of the actual discontinuation or the date the last client is discharged, whichever is later, and the facility should be removed from the inventory.

b) After obtaining its initial certificate of need, a community-based residential rehabilitation center alternative health care delivery model must obtain an additional certificate of need from the State Board before increasing the bed capacity of the center as mandated by Section 35(b) of the Act [210 ILCS 3/35(b)].

c) All assurances for service presented in the application shall be in effect until the demonstration program has been completed, unless altered pursuant to the approval of the State Board.
d) A community-based residential rehabilitation center alternative health care model shall have a period of 12 months from the date of permit issuance to become operational. Failure to begin operation in this time period shall result in the permit becoming null and void.

(Source: Added at 24 Ill. Reg. _____)

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1) Heading of the Part: Public Hearing and Comment Procedures2) Code Citation: 77 Ill. Adm. Code 12003) Section Number:Proposed Action:

Repeal

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]5) A. Complete Description of the Subjects and Issues Involved: Part 1200 is proposed to be repealed and to be replaced with a new Part 1140 that addresses public hearing and written comment procedures. Part 1200 contains language that is obsolete and was required by P.L. 93-61, the National Health Planning and Resource Development Act of 1974, which was repealed by Congress in the 1980's.6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporation by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: The purpose of the Illinois Health Facilities Planning Act (Planning Act) is to contain health care costs by preventing unnecessary construction or modification of health care facilities and to improve the "ability of the public to obtain necessary health services" and "establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public." The State Board believes repeal of this Part and adoption of Part 1140 will further the statute's purpose and better address the public hearing requirements of the Health Facilities Planning Act.11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking by writing within 45 days after this issue of the Illinois Register to:

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Donald Jones
 Health Facilities Planning Board
 Illinois Department of Public Health
 Division of Facilities Development
 525 West Jefferson, Second Floor
 Springfield, Illinois 62701-0001
 (217) 782-7516
 (217) 785-4308 (fax)
 800-547-0466 (TTY - for hearing impaired only)
 E-mail: djones@idph.state.il.us

All written comments received within 45 days of this issue of the Illinois Register will be considered.

A public hearing will be held on Wednesday, November 17, 1999, at 1:30 p.m. at the Hilton Hotel, 700 East Adams, Springfield, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed amendment. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

- 1) each person presenting oral testimony is requested to provide to the State Board a written (preferably typed) copy of such testimony at the time the oral testimony is presented.
- 2) No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time the hearing is open and limit the time of individual testimony based upon the number of persons wishing to testify. All testimony shall conclude at the specific time except that an individual, in the midst of presenting testimony shall be allowed to complete his/her testimony.
- 3) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the State Board may impose such other rules of procedure, including the order of call of witnesses, as necessary.

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Donald Jones at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

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12) Initial Regulatory Flexibility Analysis:

A) Types of small business, small municipalities and not for profit corporations affected: Health care facilities that meet the definition of small business.

B) Reporting or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the two most recent agendas because: The proposed repeal of Part 1200 was not anticipated.

The full text of the proposed repealer begin on the next page:

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TITLE 77: PUBLIC HEALTH

CHAPTER II: HEALTH FACILITIES

SUBCHAPTER B: OTHER BOARD RULES

PART 1200 PUBLIC NOTICE OF OPPORTUNITY FOR PUBLIC HEARING AND

PUBLIC HEARING PROCEDURES (REPEALED)

Section	Authority	Applicability	Procedures for Public Notification of Opportunity for Public Hearing	Procedures for Notice of Public Hearing on Applications for Permit	Procedures for Public Hearing on Applications for Permit	Procedures for Public Notice of Application for Certificate of Recognition (or Revocation, Thereof)	Procedures for Public Hearing on an Application for Certificate of Recognition (or Revocation, Thereof)		
1200.10	Reg. 4, p. 254, effective January 11, 1980; amended at 5 Ill. Reg. 4966, effective April 22, 1981; emergency amendment at 6 Ill. Reg. 6900, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11591, effective September 9, 1982; codified at 8 Ill. Reg. 14282; amended at 12 Ill. Reg. 15609, effective September 14, 1988; recodified at 20 Ill. Reg. 2601; amended at 20 Ill. Reg. 10597, effective August 1, 1996; repealed at 24 Ill. Reg. _____, effective _____,	1200.20	Reg. 4966, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11591, effective September 9, 1982; codified at 8 Ill. Reg. 14282; amended at 12 Ill. Reg. 15609, effective September 14, 1988; recodified at 20 Ill. Reg. 2601; amended at 20 Ill. Reg. 10597, effective August 1, 1996; repealed at 24 Ill. Reg. _____, effective _____,	1200.30	Reg. 4966, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11591, effective September 9, 1982; codified at 8 Ill. Reg. 14282; amended at 12 Ill. Reg. 15609, effective September 14, 1988; recodified at 20 Ill. Reg. 2601; amended at 20 Ill. Reg. 10597, effective August 1, 1996; repealed at 24 Ill. Reg. _____, effective _____,	1200.40	Reg. 4966, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11591, effective September 9, 1982; codified at 8 Ill. Reg. 14282; amended at 12 Ill. Reg. 15609, effective September 14, 1988; recodified at 20 Ill. Reg. 2601; amended at 20 Ill. Reg. 10597, effective August 1, 1996; repealed at 24 Ill. Reg. _____, effective _____,	1200.50	Reg. 4966, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11591, effective September 9, 1982; codified at 8 Ill. Reg. 14282; amended at 12 Ill. Reg. 15609, effective September 14, 1988; recodified at 20 Ill. Reg. 2601; amended at 20 Ill. Reg. 10597, effective August 1, 1996; repealed at 24 Ill. Reg. _____, effective _____,

Section 1200.10 Authority

Statutory Authority:

This Part is prepared and promulgated by authority granted to the Illinois Department of Public Health (Agency) and to the Illinois Health Facilities Planning Board (State Board) under Section 12 of the Illinois Health Facilities Planning Act (The Act) (Ill. Rev. Stat. 1981, ch. 111, 1/2, par. 1.162). Specifically cited, is Section 12(2) of the Act which provides that the Agency shall adopt and the State Board shall approve procedures for public notice and hearing on all proposed rules, regulations, standards, criteria and plans required to carry out the provisions of the Act (Section 4 of the Act).

Section 1200.20 Applicability

Applicability - Application for Permit and Certificate of Recognition (or Withdrawal, Thereof):

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a) Sections 8 and 9 of the Act provide that an opportunity for public hearing must be afforded by the areawide health planning organization or the State Agency, when an application for permit (or withdrawal, thereof) is initially reviewed. In addition, when an application for a Certificate of Recognition of an areawide health planning organization (or withdrawal, thereof) is received by the State Agency, this organization must conduct a public hearing. In both cases, this action must take place within a reasonable period after receipt of the application, not to exceed 90 days (Sections 8 of the Act).

b) Notice of opportunity for public hearing and opportunity to participate in all public hearings must be afforded to all "Affected Persons". The definition of "Affected Persons" shall include the applicant as well as those persons detailed in Section 1200.30 (c).

c) No fee shall be charged by the areawide health planning organization or the State Agency for any public hearing held pursuant to the provisions of this Part.

Section 1200.30 Procedures for Public Notification of Opportunity for Public Hearing

Content and Distribution of Public Notice of Receipt of an Application for Permit: After an application for permit has been received and has been deemed complete, the recognized areawide health planning organization or the Agency (as the case may be) shall afford an opportunity for public hearing on the project by preparing a public notice advising that the application for permit has been received. The content of this public notice shall consist of at least the following elements:

- 1) Identification of the proposed project and the Review Schedule (including a brief description of the project);
- 2) Identification (including the mailing address and telephone number) of the appropriate recognized areawide health planning organization or the Agency (as the case may be); and
- 3) The "time-frame" (which shall be at least 15 days from the date of notification of the beginning of the Review Period) for any person to contact the recognized areawide health planning organization (or the Agency) to request a public hearing on the proposed project.

b) The "Notice of Review and Opportunity for Public Hearing" (as prepared in accordance with subsection (a) above) shall be forwarded promptly to the applicant by certified mail and shall be published in a newspaper of general circulation in the area or community to be affected. The "date of notification" of the beginning of the Review Period is the date on which the "Notice of Review and Opportunity for Public Hearing" is sent to the applicant or the date on which the notice appears in the newspaper, whichever is later. Such notice should be published as soon as possible after the receipt of an application in order to allow the public at least 15 days to request a

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public hearing.

c) The "Notice of Review and Opportunity for Public Hearing" shall also be forwarded by mail to the following:

- 1) The State Health Planning Development Agency (SHPDA) or the areawide health planning organization, as the case may be; and
- 2) Any contiguous areawide health planning organization or any areawide health planning organization(s) located in the same Standard Metropolitan Statistical Area (SMSA) that might have interest in the proposed project.

Section 1200.40 Procedures for Notice of Public Hearing on Applications for Permit

Content and Distribution of Notice of Public Hearing on Applications for Permit:

a) If the recognized areawide health planning organization or the Agency (as the case may be) receives a request for public hearing on a proposed project in response to the notification of opportunity for public hearing (as outlined in Section 1200.30) and within the "time-frame" (as outlined in Section 1200.30) and within the recognized areawide health planning organization or the Agency must schedule a public hearing on the proposed project and a public notice of the hearing prepared. The content of the public notice shall consist of at least the following elements:

- 1) Identification of the subject to be heard;
- 2) Identification of the agency conducting the hearing;
- 3) Identification of the agency conducting the hearing;
- 4) Announcement that the hearing is an open public meeting at which opportunity will be afforded all parties at interest to present written and/or verbal comments relevant to the issues; and
- 5) Announcement of the time, date and location of the hearing.

b) Notice of such hearing (as prepared in accordance with subsection (a) above) shall be made promptly by certified mail to the applicant and within 10 days of the hearing, by publication in a newspaper of general circulation in the area or community to be affected (Section 8 of the Act).

c) Notice of the public hearing shall also be forwarded by mail to the following:

- 1) The State Health Planning Development Agency (SHPDA) or the areawide health planning organization, as the case may be; and
- 2) Any contiguous areawide health planning organizations or any areawide health planning organization(s) located in the same Standard Metropolitan Statistical Area (SMSA) that might have interest in the proposed project.

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d) Notice to all other persons including members of the general public who are to be served by the proposed project shall be deemed to have been given by publication of the notice in a newspaper in the area or community to be affected (as outlined in subsection (b) above).

Section 1200.50 Procedures for Public Hearing on Applications for Permit

a) Provisions for Public Hearing:

Procedures for public hearing shall include at least the following provisions:

- 1) Provision that the hearing be conducted in the area or community where the proposed establishment, construction, or modification of a health care facility is to occur (Section 8 of the Act);
- 2) Provision of a place of reasonable size and accessibility;
- 3) Provision of a hearing officer or officers with authority to conduct the hearing and to take all necessary steps to assure the hearing's proper completion;
- 4) Provision to allow the applicant and any interested person to present public testimony concerning the approval, denial, renewal, or revocation of the permit...In writing or orally (Section 8 of the Act). Any person shall have the right to be represented by counsel and may conduct reasonable questioning of persons who make relevant, factual allegations;
- 5) The hearing officer shall determine the order in which testimony is taken and the time to be allocated for each to testify;
- 6) The hearing officer shall maintain order and may set and announce new hearing dates, times and places. His verbal announcement shall, for this purpose, constitute public notice;
- 7) The proceeding shall be tape-recorded or otherwise recorded. A full and complete transcription need not be made, however, unless required by law and paid for by the requesting party;
- 8) The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his custody; and
- 9) The hearing officer shall, within a reasonable time, make his report (which shall include all aforementioned documents) to the agency conducting the hearing and to the State Board.

b) Public Information - Project Cost Impact:

The information submitted by the applicant under 77 Ill. Adm. Code 1230 and/or 1240 (Financial and Economic Feasibility Review and Evaluation Plans of the State Board) shall be made public information by reviewing agencies at the public hearing.

c) Ex Parte Contacts (During the Review Period):

If a public hearing is requested in accordance with the provisions of Section 1200.30 there shall be no "ex parte" contacts (after commencement of the hearing) between:

- 1) Any person acting on behalf of the applicant or holder of a

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED REPEALER

permit or any person in favor of withdrawal of a permit; and any person in the State Agency who exercises any responsibility respecting the application or withdrawal.

With respect to pending application subsequent to the commencement of a public hearing, the term "ex parte" contact or communication shall mean, in accordance with the Federal Administrative Procedure Act (5 U.S.C. 551(l)(4)) an oral or written communication not on the public record with respect to which reasonable prior notices to such parties (who have requested in writing notification to the State Agency) is not given. Such Notice must be provided on or before the date of the public hearing. "Ex parte" shall not include requests for status reports on any matter or proceeding.

Any communications made after the commencement of the public hearing that are placed in the record or documented in the project file, are not considered "ex parte" and are not prohibited. If the public hearing authority has been delegated to the areawide health planning organization, the prohibition regarding "ex parte" contacts with the State Agency, applies after the commencement of the hearing by the areawide health planning organization.

Section 1200.60 Procedure for Public Notice of Application for Certificate of Recognition (or Revocation, Thereof)

Content and Distribution of Public Notice:

a) Upon receipt of an application for a certificate of recognition (or in the case of proposed revocation of a certificate of recognition) of an areawide health planning organization for health facilities planning made to the State Board, the Agency shall conduct a public hearing within a reasonable period after receipt of the application, not to exceed 90 days (Section 8 of the Act). In addition to scheduling of the public hearing, the Agency shall also prepare a public notice of the hearing. Such public notice shall consist of at least the same items listed in Section 1200.40 (a)(1)-(5).

b) Notice of such hearing (as prepared in accordance with items in Section 1200.40 (a)(1)-(5) shall be made promptly to the applicant by certified mail and by publication in a newspaper of general circulation in the area where the applicant intends to conduct health facilities planning (Section 8 of the Act).

c) Notice of the public hearing shall also be forwarded by mail to the following agencies or affected persons:

- 1) The State Health Planning Development Agency (SHPPDA);
- 2) All contiguous areawide health planning organizations;
- 3) All existing health care facilities in the health service area that are subject to the Act;
- 4) State Senators and Representatives of the Legislative District in which the areawide health planning organization is located; and
- 5) Any local health departments and medical societies located in the health service area.

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d) Notice to members of the general public who are to be served by the area wide health planning organization proposed for Recognition (or Revocation, thereof) shall be deemed to have been given by the publication of the notice in the newspaper as outlined in subsection (b) above.

e) The Agency shall also prepare and issue a news release covering at least the elements required in the public notice (as outlined in subsection (a) above).

Section 1200.70 Procedures for Public Hearing on an Application for Certificate of Recognition (or Revocation, thereof)

Procedures for public hearing shall include at least the following provisions:

a) Provision that the hearing be conducted by the *Agency in the area affected* (Section 8 of the Act);

b) Provision of a place of reasonable size and accessibility;

c) Provision of a hearing officer or officers with authority to conduct the hearing and to take all necessary steps to assure the hearing's proper completion;

d) Provision or allowing any applicant and all interested parties to present public testimony concerning the approval, denial, or revocation of a certificate of recognition. All interested parties attending such hearing shall be given reasonable opportunity to present their views orally or in writing. (Section 8 of the Act);

e) The hearing officer shall determine the order in which testimony is taken and the time to be allocated for each to testify;

f) The hearing officer shall maintain order and may set and announce new hearing dates, times and places. His verbal announcement shall, for this purpose, constitute public notice;

g) The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his custody;

h) The hearing shall be tape-recorded or otherwise recorded. A full and complete transcription need not be made; however, unless required by law and paid for by the requesting party; and

i) The hearing officer shall within a reasonable time, make his report and the Agency shall transmit a copy to the State Board. The State Board shall consider all testimony submitted by the Agency pursuant to the public hearing in conjunction with the recommendation of the Agency for the approval, denial, or revocation of the certification of recognition (Section 8 of the Act).

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1) Heading of the Part: Public Hearing and Comment Procedures

2) Code Citation: 77 Ill. Adm. Code 1140

3) Section Number: Proposed Action:
1140.10 New Section
1140.20 New Section
1140.30 New Section
1140.40 New Section
1140.50 New Section
1140.60 New Section
1140.70 New Section
1140.80 New Section
1140.90 New Section

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

5) A Complete Description of the Subjects and Issues Involved: A new Part 1140 is being proposed to replace Part 1200 which is proposed to be repealed. The proposed part provides procedures for public hearing or written comments on all projects or transactions that require State Board review. The State Board held several forums on the Certificate of Need (CON) program in July and August. Suggestions were received by providers to revise the public comment process. This new part attempts to address comments made at the forums and to provide specificity on how public input may be made on applications for permit and on proposed rules.

6) Will this rulemaking replace any emergency rulemaking currently in effect:
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporation by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: The purpose of the Illinois Health Facilities Planning Act (Planning Act) is to contain health care costs by preventing unnecessary construction or modification of health care facilities and to improve the "ability of the public to obtain necessary health services" and "establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public." Public input through written comments or public hearings afforded the State Board an opportunity to consider community and interested persons support, opposition, or concerns regarding proposed projects, rules, or recognition of areawide health planning organizations in its deliberations.

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(11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking. Interested persons may present their comments concerning this rulemaking by writing within 45 days after this issue of the Illinois Register to:

Donald Jones
Health Facilities Planning Board
Illinois Department of Public Health
Division of Facilities Development
525 West Jefferson, Second Floor
Springfield, Illinois 62761-0001
(217) 782-3516
(217) 785-4308 (fax)
800-547-0466 (TTY - for hearing impaired only)
E-mail: djones@idph.state.il.us

All written comments received within 45 days of this issue of the Illinois Register will be considered.

A public hearing will be held on Wednesday, November 17, 1999, at 1:30 p.m. at the Hilton Hotel, 700 East Adams, Springfield, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed amendment. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

- 1) Each person presenting oral testimony is requested to provide to the State Board a written (preferably typed) copy of such testimony at the time the oral testimony is presented.
- 2) No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time the hearing is open and limit the time of individual testimony based upon the number of persons wishing to testify. All testimony shall conclude at the specific time except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.
- 3) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the State Board may impose such other rules of procedure, including the order of call of witnesses, as necessary.

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Donald Jones at the above address.

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Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small business, small municipalities and not for profit corporations affected: Health care facilities that meet the definition of small business.
None
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: None

The full text of the Proposed Amendments begins on the next page:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED RULE

TITLE 77: PUBLIC HEALTH

CHAPTER II: HEALTH FACILITIES PLANNING BOARD

SUBCHAPTER b: OTHER BOARD RULES

PART 1140

PUBLIC HEARING AND COMMENT PROCEDURES

Section 1140.10 Authority and Definitions

1140.10 Authority and Definitions

1140.20 Applicability

1140.30 Notice Procedures for Public Hearing and Comment on Applications for Permit

Procedures Regarding Public Hearing Notice on Applications for Permit

1140.40 Procedures for Public Hearing on Applications for Permit

1140.50 Written Comments on Applications for Permit

1140.60 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation Thereof)

1140.70 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation Thereof)

1140.80 Procedures for Public Hearing and Comments on Proposed Rules

1140.90 Procedures for Public Hearing and Comments on Proposed Rules

AUTHORITY: Implementing and authorized by Section 12(2) of the Illinois Health Facilities Planning Act (20 ILCS 3960.1).

SOURCE: Adopted at _____, Reg. _____, effective _____.

Section 1140.10 Authority and Definitions

This Part is prepared and promulgated by authority granted to the Illinois Health Facilities Planning Board (State Board) under Section 12 of the Illinois Health Facilities Planning Act (the Act) (20 ILCS 3960). Definitions that will assist in the understanding of this Part are:

"Agency" or "IDPH" means the Illinois Department of Public Health or, in the case of public hearings on applications for permit, an areawide health planning organization that has been recognized by the State Board and delegated the authority to act on behalf of the IDPH.

"Areawide Health Planning Organization" or "Comprehensive Health Planning Organization" means the health systems agency designated by the Secretary, Department of Health and Human Services, or any successor agency.

"State Board" means the Health Facilities Planning Board. [20 ILCS 3960.3]

HEALTH FACILITIES PLANNING BOARD

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Section 1140.20 Applicability

- a) Applications for Permit
 - Section B of the Act provides that an opportunity for public hearing must be afforded by the Agency when an application for permit is initially reviewed. The public hearing must take place within a reasonable period after receipt of the application, not to exceed 90 days.
- b) Certificates of Recognition
 - Section 9 of the Act provides that a public hearing must be conducted by the IDPH with respect to the approval or denial of an application for a certificate of recognition of an areawide health planning organization or for the revocation of a certificate of recognition. The public hearing on an application for recognition must take place within a reasonable period after receipt of the application, not to exceed 90 days.
- c) Proposed Rules
 - Section 12 of the Act provides that the State Board shall adopt procedures for public notice and hearing on all proposed rules, regulations, standards, criteria, and plans required to carry out the provisions of the Act.

Section 1140.30 Notice Procedures for Public Hearing and Comment on Applications for Permit

- a) Notice of Review and Opportunity for Public Hearing and Comment After an Application for Permit has been received and has been deemed complete or after a complete application for Permit has made a Type A modification (pursuant to the provisions of 77 Ill. Adm. Code 113.0), the Agency shall afford an opportunity for public hearing and written comments on the project by preparing and publishing a Notice of Review and Opportunity for Public Hearing and Comment (Notice). The content of this Notice shall consist of at least the following elements:
 - 1) Identification of the proposed project, including the project cost and a brief description of the project and the tentative date the application is scheduled for State Board review;
 - 2) Identification, including the mailing address and telephone number, of the agency that is responsible for the public hearing;
 - 3) Information regarding where a copy of the application may be viewed by the public and how copies of the application may be obtained;
 - 4) A statement that any person has the right to request a public hearing and to submit written comments on the proposed project; and
 - 5) The date (which shall be at least 15 days from the date of publication of the Notice) by which a written request for a public hearing must be received by the Agency; and
 - 6) The date (which shall be 20 days prior to the tentative date the application is scheduled for State Board review) by which written

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b) The "Notice of Review and Opportunity for Public Hearing" (as prepared in accordance with subsection (a) above) shall be forwarded promptly to the applicant by certified mail and shall be published in a newspaper of general circulation in the area or community where the project is to occur.

c) Notice to all other persons, including health care facilities and members of the general public, shall be deemed to have been given by publication of the Notice in a newspaper in the area or community where the project is to occur.

Section 1140.40 Procedures Regarding Public Hearing Notice on Applications for Permit

a) Content and Distribution of Notice of Public Hearing on Applications for Permit

If the Agency receives a request for a public hearing on a proposed project in response to the Notice of Opportunity for Public Hearing or Comment within the time frame established in that Notice, the Agency shall schedule a public hearing on the proposed project and prepare and publish a Public Hearing Notice. The content of the Public Hearing Notice shall consist of at least the following elements:

- 1) Identification of the subject to be heard;
- 2) Identification of the law under which it is being heard;
- 3) Identification of the agency conducting the hearing;
- 4) Announcement of the time, date and location of the hearing;
- 5) Announcement that the hearing is an open public meeting at which opportunity will be afforded all parties at interest to present written and/or verbal comments relevant to the project; and
- 6) Announcement that allegations or assertions should be relevant to the need for the proposed project, and be supported with two copies of documentation or materials that are preferably printed or typed on paper size 8 1/2" by 11".

b) Notice of such hearing shall be made promptly by certified mail to the applicant, and within 10 days prior to the hearing, by publication in a newspaper of general circulation in the area or community to be affected (Section 8 of the Act).

c) Notice to all other persons, including members of the general public, who are to be served by the proposed project shall be deemed to have been given by publication of the Public Hearing Notice in a newspaper in the area or community where the project is to occur.

AGENCY NOTE: If the applicant or an interested person requests a public hearing on a proposed project after an application for permit has been submitted but prior to the application being deemed complete or after a project has had a Type A modification (pursuant to the provisions of 77 Ill. Adm. Code 1130), the Agency shall not provide a Notice of Opportunity for Public Hearing or Comment but shall, at the time the application is deemed complete or subsequent to a Type A modification, schedule a public

HEALTH FACILITIES PLANNING BOARD

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hearing and prepare and publish a Public Hearing Notice.

Section 1140.50 Procedures for Public Hearing on Applications for Permit

a) Provisions for Public Hearing

Procedures for public hearing shall include at least the following provisions:

- 1) Provision that the hearing be conducted in the area or community where the proposed establishment, construction, or modification of a health care facility is to occur (Section 8 of the Act);
- 2) Provision of a place of reasonable size and accessibility;
- 3) Provision of a hearing officer or officers with authority to conduct the hearing and to take all necessary steps to assure the hearing's proper completion;
- 4) Provision to allow all interested persons attending...reasonable opportunity to present their views or arguments in writing or orally.. (Section 8 of the Act). Any person shall have the right to be represented by counsel;
- 5) The hearing officer shall have the authority to require the swearing in of persons presenting testimony and to determine the order in which testimony is taken and the time to be allocated for each person to testify;
- 6) The hearing officer shall maintain order and may set and announce new hearing dates, times and places. The hearing officer's verbal announcement shall, for this purpose, constitute public notice;
- 7) The proceeding shall be tape-recorded or otherwise recorded. A full and complete transcript need not be made, however, unless required by law and paid for by the requesting party;
- 8) The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his or her custody; and
- 9) The hearing officer shall, within a reasonable time, submit a public hearing report that shall include all exhibits and documents to the Agency for submission to the State Board.

Section 1140.60 Written Comments on Applications for Permit

All written comments that are received at least 20 days prior to the scheduled State Board meeting date for consideration of an application for permit will be forwarded to the State Board and to the applicant in advance of the State Board meeting date. Written comments that are received after the 20 day period shall be submitted to the State Board and made part of the application for permit record only if the State Board does not make a final decision at the scheduled meeting and considers the application at a subsequent meeting. Persons submitting comments are responsible for assuring that the Agency is receipt of the comments within the prescribed time frame. The provisions of this

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Section do not apply to written comments that are submitted pursuant to the time frames established by a hearing officer as part of a public hearing on an application for permit.

Section 1140.70 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation Thereof)

- a) Upon receipt of an application for a certificate of recognition (or in the case of proposed revocation of a certificate of recognition) of an area-wide health planning organization for health facilities planning made to the State Board, the Agency shall conduct a public hearing within a reasonable period after receipt of the application, not to exceed 90 days (Section 9 of the Act). In addition to scheduling the public hearing, the Agency shall also prepare a public notice of the hearing. Such public notice shall consist of:
 - 1) Identification of the subject to be heard;
 - 2) Identification of the law under which it is being heard;
 - 3) Identification of the agency conducting the hearing;
 - 4) Announcement that the hearing is an open public meeting at which opportunity will be afforded all parties at interest to present written and/or verbal comments relevant to the issues; and
 - 5) Announcement of the time, date and location of the hearing.
- b) Notice of such hearing shall be made promptly to the applicant by certified mail and by publication in a newspaper of general circulation in the area where the applicant intends to conduct health facilities planning (Section 9 of the Act).
- c) Notice of the public hearing shall also be forwarded by mail to the following:
 - 1) All contiguous area-wide health planning organizations;
 - 2) All existing health care facilities in the health service area that are subject to the Act.
- d) Notice to members of the general public who are to be served by area-wide health planning organization proposed for recognition (or revocation) shall be deemed to have been given by the publication of the notice in the newspaper of general circulation in the area where the applicant intends to conduct health facilities planning.

Section 1140.80 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation Thereof)

Procedures for public hearing shall include at least the following provisions:

- a) Provision that the hearing be conducted by the Agency in the area affected (Section 9 of the Act);
- b) Provision of a place of reasonable size and accessibility;
- c) Provision of a hearing officer or officers with authority to conduct the hearing and to take all necessary steps to assure the hearing s proper completion;
- d) Provision for allowing any applicant and all interested parties to

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present public testimony concerning the approval, denial, or revocation of a certificate of recognition. All interested parties attending such hearing shall be given reasonable opportunity to present their views orally or in writing... (Section 9 of the Act); e) The hearing officer shall determine the order in which testimony is taken and the time to be allocated for each to testify;

f) The hearing officer shall maintain order and may set and announce new hearing dates, times and places. His verbal announcement shall, for this purpose, constitute public notice;

g) The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his custody;

h) The hearing shall be tape-recorded, or otherwise recorded. A full and complete transcription need not be made, however, unless required by law and paid for by the requesting party; and

i) The hearing officer shall, within a reasonable time, make his report and the Agency shall transmit copy to the State Board. The State Board shall consider all testimony submitted by the Agency pursuant to the public hearing in conjunction with the recommendation of the Agency for the approval, denial, or revocation of the certificate of recognition (Section 9 of the Act).

Section 1140.90 Procedures for Public Hearing and Comments on Proposed Rules

All proposed rule making is subject to the provisions of the Illinois Administrative Procedure Act (IAPA). The State Board shall conduct public hearings on all proposed rules. Notice of public hearings on proposed rules shall be published in the Illinois Register as part of the IAPA first notice requirements. Written comments should be submitted in accordance with the first notice requirements published in the Illinois Register.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Consignment of Licenses, Stamps and Permits2) Code Citation: 17 Ill. Adm. Code 25203) Section Numbers: Proposed Action:
2520.10 Amendment4) Statutory Authority: Implementing and authorized by Sections 1.4, 3.1, 3.2, 3.37, 3.38 and 3.39 of the Wildlife Code [520 ILCS 5/1.4, 3.1, 3.2, 3.37, 3.38 and 3.39] and Sections 1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120 of the Fish and Aquatic Life Code [1515 ILCS 5/1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120].5) A. Complete Description of the Subjects and Issues Involved: These amendments will update regulations for agents to meet preferred status by changing the minimum number of current license year remittances or no sales reports from 10 to 9 and changing the months they are due from March-December to April-December.6) Will this rulemaking replace any emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Do these proposed amendments contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? No10) Units of Statewide Policy Objectives: This rulemaking does not affect units of local government.11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/722-1809

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Direct agents selling licenses, stamps and permits who qualify to receive preferred status.
- B) Reporting, bookkeeping or other procedures required for compliance:

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NOTICE OF PROPOSED AMENDMENTS

Agents must submit 9 monthly current license year remittances or no sales reports between April and December.

C) Types of professional skills necessary for compliance: No professional skills are requires.

1.3) Regulatory Agenda on which this rule was summarized: July 1999

The full text of the proposed Amendments begins on the next page.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

SUBCHAPTER F: ADMINISTRATIVE SERVICES

PART 2520

CONSIGNMENT OF LICENSES, STAMPS AND PERMITS

Section	Consignment Requirements
2520.10	Issuing Licenses, Stamps and Permits
2520.20	Terms
2520.40	Credit to Vendor Accounts
2520.50	Issuance of Replacement Hunting, Fishing and Trapping Licenses, Stamps and Permits
2520.60	Sale of Licenses by Telephone or Electronic Transmission

AUTHORITY: Implementing and authorized by Sections 1.4, 3.1, 3.2, 3.37, 3.38 and 3.39 of the Wildlife Code [520 ILCS 5/1.4, 3.1, 3.2, 3.37, 3.38 and 3.39] and Sections 1-125, 20-10, 20-10, 20-45, 20-55 and 20-120 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120].

SOURCE: Adopted and codified at 7 Ill. Reg. 8760, effective July 15, 1983; amended at 8 Ill. Reg. 5660, effective April 16, 1984; amended at 9 Ill. Reg. 14626, effective September 17, 1985; amended at 11 Ill. Reg. 4633, effective March 10, 1987; amended at 15 Ill. Reg. 7633, effective May 7, 1991; amended at 16 Ill. Reg. 8479, effective May 26, 1992; amended at 18 Ill. Reg. 9991, effective June 21, 1994; amended at 19 Ill. Reg. 7541, effective May 26, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 14117, effective October 25, 1996; amended at 21 Ill. Reg. 6483, effective May 19, 1997; amended at 22 Ill. Reg. 10466, effective June 1, 1998; amended at 23 Ill. Reg. 6818, effective May 20, 1999; amended at 24 Ill. Reg. _____, effective _____.

Section 2520.10 Consignment Requirements

- a) The Department of Natural Resources (DNR) has the authority to designate agents to sell licenses, stamps and permits on behalf of the Department. DNR consigns hunting, fishing, trapping and ginseng harvester licenses, migratory waterfowl, salmon and wildlife conservation stamps, and archery permits, hereinafter referred to as "licenses, stamps and permits", for sale by county, city, village township and incorporated town clerks, upon receipt of their completed application and elected official license vendor contract, and fulfillment of requirements set forth in this Part. The Department also consigns the licenses, stamps and permits to other persons, hereinafter referred to as "direct agents", upon receipt of their

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completed application, license vendor contract, evidence of financial responsibility, and fulfillment of the requirements set forth in this Part. The term "direct agent" means all persons authorized by the Department to sell licenses, stamps and permits other than elected or appointed officials and department employees. License vendors, including employees of the Department selling licenses, stamps and permits, shall collect an issuing fee in addition to the license stamp and permit fee as provided in 515 ILCS 5/20-120 and 520 ILCS 5/3.37 as follows: 75 cents for each Sportsmen's Combination license and non-resident hunting license, and 50 cents for all other licenses, stamps and permits authorized by the above statutes. All licenses, stamps and permits consigned and fees collected from the sale of licensable, stamps and permits (except the authorized issuing fee) remain the property of the State of Illinois. Funds received from the sale of licenses, stamps and permits (except the authorized issuing fee) shall not be directed to any purpose other than remittance to the Department.

- b) County, city, village, township and incorporated town clerks may appoint sub-agents within the territorial area for which they are elected or appointed. Elected or appointed officials and Department employees selling licenses, stamps and permits are liable to the account for all licensable, stamps and permits consigned to their account, including any licensable, stamps and permits furnished by a clerk to any sub-agent. Any Clerk furnishing sub-agents must notify the Department, within 10 days following the appointment, the names and mailing addresses of such sub-agents. No part of the issuing fees collected may be retained as personal compensation by the clerk. Issuing fees may be divided between the clerk and appointed sub-agents other than employees of the Clerk's office, but in no case may any clerk and/or sub-agent charge an issuing fee or fees totaling more than the amounts set out in subsection (a) of this Section. DNR assumes no liability for any licenser, stamp or permit furnished by any elected or appointed clerk to any sub-agent.
- c) All direct agents, including concessionaires holding contracts with the Department shall be required to furnish DNR with evidence of financial responsibility. Such evidence shall be in the form of a surety bond, letter of credit or certificate of deposit, in an amount equal to the value of licenses, stamps and permits consigned with the exception of direct agents with a preferred status. Direct agents must meet the following qualifications to receive a preferred status:
 - 1) The direct agent must sell licensable, stamps and permits for one complete license year.
 - 2) The Department must have received a minimum of 10 monthly current license year rebillants or no sales reports between April 1 March and December (inclusive).

If these qualifications are met the direct agent's consignments may total 50% over the amount of their financial evidence. All direct agents with a preferred status will be reviewed annually. If

DEPARTMENT OF NATURAL RESOURCES

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qualifications have been met, the preferred status will continue for the following license year. If the qualifications have not been met, the preferred status is removed and the direct agent will be consigned financial licensess, stamps and permits equal to the amount of financial evidence. Surety bonds and letters of credit shall be on a form furnished by and approved by DNR, with surety or sureties satisfactory to DNR, conditioned upon such agents paying to the State of Illinois all monies becoming due by reason of the sale of licenses, stamps and permits. No direct agent may appoint sub-agents.

(Source: Amended at _____) _____, Reg. _____, effective _____,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

1)	Heading of the Part:	Pay Plan	NOTICE OF ADOPTED AMENDMENT
2)	Code Citation:	80 Ill. Adm. Code 310	DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
3)	Section Numbers:	310.470	Adopted Action: Amended
4)	Statutory Authority:	Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].	Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
5)	Effective Date of Amendments:	September 27, 1999	
6)	Does this rulemaking contain an automatic repeal date?	Yes	
7)	Does this amendment contain incorporations by reference?	No	
8)	A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.		
9)	Notice of Proposal Published in the Illinois Register:	April 30, 1999; 23 Ill. Reg. 5215.	
10)	Has JCAR issued a Statement of Objections to this amendment?	No	
11)	Difference between proposal and final version?	None	
12)	Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?	Yes	
13)	Will this amendment replace an emergency amendment currently in effect?	No	
14)	Are there any proposed amendments pending on this Part?	Yes	

Section Numbers	Proposed Action	Illinois Register Citation
310.230	Amend	23 Ill. Reg. 6720
310.110	Amend	23 Ill. Reg. 7820
310.130	Amend	23 Ill. Reg. 7820
310.290	Amend	23 Ill. Reg. 7820
310.530	Amend	23 Ill. Reg. 7820
310.540	Amend	23 Ill. Reg. 7820
310 Appendix B	Amend	23 Ill. Reg. 7820
310 Appendix C	Amend	23 Ill. Reg. 7820
310 Appendix D	Amend	23 Ill. Reg. 7820
310 Appendix G	Amend	23 Ill. Reg. 7820

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

Section Numbers Proposed Action
 310.230 Amend
 310.270 Amend
 310 Appendix A, Table AA

15) Summary and Purpose of Amendment: In Section 310.470, Adjustment, the salary adjustment being modified to state that an adjustment of over 3%, unless that results in \$175 per month or less, will create a new creditable service date and will require approval of the Governor's Office.

16) Information and questions regarding this adopted amendment shall be directed to:

Mr. Michael Murphy
 Department of Central Management Services
 Division of Technical Services
 504 William G. Stratton Building
 Springfield, Illinois 62706
 217/732-5601

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
 SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND POSITION CLASSIFICATIONS
 CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
 PAY PLAN

SUBPART A: NARRATIVE

Section	Policy and Responsibilities
310.20	Jurisdiction
310.30	Pay Schedules
310.40	Definitions
310.50	Conversion of Base Salary to Pay Period Units
310.60	Conversion of Base Salary to Daily or Hourly Equivalents
310.70	Increases in Pay
310.80	Decreases in Pay
310.90	One Pay Provisions
310.100	Implementation of Pay Plan Changes for Fiscal Year 2000
310.110	Interpretation and Application of Pay Plan
310.120	Effective Date
310.130	Reinstatement of Within Grade Salary Increases
310.140	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)
310.150	

SUBPART B: SCHEDULE OF RATES

Section

310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate
310.240	Hourly Rate
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate
310.270	Licensed and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State or Foreign Service Rate
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections Excluded Classes Rate (Repealed)
310.330	

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

Section

3.0.4.10 Jurisdiction

3.0.4.20 Objectives

3.0.4.30 Merit Compensation Salary Schedule

3.0.4.40 Procedures for Determining Annual Merit Increases

3.0.4.50 Intermittent Merit Increase

3.0.4.55 Merit Zone (Repealed)

3.0.4.60 Other Pay Increases

3.0.4.70 Adjustments in Pay

3.0.4.80 Decreases in Pay

3.0.4.90 Other Pay Provisions

3.0.4.95 Broad-Band Pay Range Classes

3.0.5.00 Conversions of Base Salary to Pay Period Units

3.0.5.10 Conversions of Base Salary to Daily or Hourly Equivalents

3.0.5.20 Conversion of Natural Resources, Teamsters

3.0.5.30 Annual Merit Increase Guidechart for Fiscal Year 2000

Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A Negotiated Rates of Pay

APPENDIX B State of Illinois Building - SEIU

APPENDIX C Illinois (Department of Natural Resources, Teamsters)

APPENDIX D HR-200 (Department of Labor - Chicago, Illinois - SEIU)

APPENDIX E RC-089 (Firefighters, AFSCME) (Repealed)

APPENDIX F HR-001 (Teamsters Local #726)

APPENDIX G HR-020 (Teamsters Local #330)

APPENDIX H RC-045 (Automotive Mechanics, IFPE)

APPENDIX I RC-006 (Correctional Employees, AFSCME)

APPENDIX J RC-009 (Institutional Employees, AFSCME)

APPENDIX K RC-014 (Clerical Employees, AFSCME)

APPENDIX L RC-023 (Registered Nurses, INA)

APPENDIX M RC-008 (Boilermakers)

APPENDIX N RC-110 (Conservation Police Lodge)

APPENDIX O RC-010 (Professional Legal Unit, AFSCME)

APPENDIX P RC-028 (Paraprofessional Human Services Employees, AFSCME)

APPENDIX Q Paraprofessional Investigatory and Law Enforcement Employees, IFPE)

APPENDIX R RC-033 (Residential Maintenance Workers, AFSCME)

APPENDIX S RC-042 (Fair Employment Practices Employee, SEIU)

APPENDIX T HR-010 (Teachers of Deaf, ITRN)

APPENDIX U HR-010 (Teachers of Deaf, Extracurricular Paid Activities)

APPENDIX V CU-500 (Corrections, Meet and Confer Employees)

APPENDIX W RC-C-062 (Technical Employees, AFSCME)

TABLE X RC-063 (Professional Employees, AFSCME)

TABLE Y RC-063 (Educators, AFSCME)

TABLE Z Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year 2000

APPENDIX B Medical Administrator Rates for Fiscal Year 2000

APPENDIX C Merit Compensation System Salary Schedule for Fiscal Year 2000

APPENDIX D Teaching Salary Schedule (Repealed)

APPENDIX E Physician and Physician Specialist Salary Schedule (Repealed)

APPENDIX F Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2000

AUTHORITY: Implementing, and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 158; emergency amendment at 8 Ill. Reg. 1930, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3138, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5074, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 12199, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15676, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21210, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21541, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 921, effective May 31, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 1063, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8928, effective June 17, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 13675, effective July 31, 1986; preemtory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15671, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective October 30, 1986, for a maximum of 150 days; preemtory amendment at 10 Ill. Reg. 19132, effective December 28, 1986; preemtory amendment at 10 Ill. Reg. 21097, effective April 11, 1987; amended at 11 Ill.

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Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5001, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14934, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment at 11 Ill. Reg. 17191, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1988; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 1, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 8981, effective May 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13350; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 8080, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 30, 1989; peremptory amendment at 13 Ill. Reg. 8849, effective May 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 1627, effective January 11, 1990; peremptory amendment at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 14, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 14361, effective September 26, 1990; peremptory amendment at 14 Ill. Reg. 17191, effective October 2, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 6633, effective November 28, 1995;

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Reg. 648, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 10481, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 5591, effective January 4, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14466, effective December 23, 1993; amended at 17 Ill. Reg. 15146, effective March 21, 1994; peremptory amendment at 17 Ill. Reg. 16466, effective April 26, 1994, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2254, effective January 15, 1994; amended at 18 Ill. Reg. 727, effective April 8, 1994; amended at 18 Ill. Reg. 10545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 11107, effective January 18, 1994; amended at 18 Ill. Reg. 11411, effective November 21, 1994; peremptory amendment at 18 Ill. Reg. 11999, effective January 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14471, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16108, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3436, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 906, effective June 26, 1995; emergency amendment at 19 Ill. Reg. 1154, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 1397, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995;

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22. 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9000, effective June 26, 1996; amended at 20 Ill. Reg. 9922, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 21 Ill. Reg. 1033, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16291, effective January 22, 1997; amended at 21 Ill. Reg. 51441, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 13859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 15839, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 579, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 1692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998; for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16151, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 2046, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective June 3, 1999; for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective July 1, 1999; for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12422, effective September 21, 1999; peremptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. **13.053**, effective _____.

Section 310.470 Adjustment
(Source Step 27 1999 at 23 Ill. Reg. 13.053, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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1) Heading of the Part: Placement and Visitation Services

2) Code of Citation: 89 Ill. Adm. Code 301

3) Section Numbers:
301.20
301.30
301.40
301.60
301.80

4) Statutory Authority: The Children and Family Services Act [20 ILCS 505].

5) Effective Date of Amendments: October 20, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: April 16, 1999 at
Ill. Reg. 4327

10) Has JCAR issued a Statement of Objections to this amendment? No

11) Difference between proposal and final version: Other then editing and formating corrections, no differences are found.

12) Have all the changes agreed upon by the agency and JCAR been made indicated in the agreements issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: The Department is amending Part 301 following:

The definition of "biological father" has been replaced by the definition of "father" and is consistent with the definition in 89 Ill. Adm. Code 315 (Permanency Planning) which was published on February 16, 1999 as an adopted rulemaking in 23 Ill. Reg. 2539.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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the definition found 89 Ill. Adm. Code 315 (Permanency Planning).

In order to comply with the federal Multi-ethnic Placement Act and the state's inter-ethnic adoption provisions of the Small Business Job Protection Act of 1996, the placement selection criteria described in Section 301.60 are being revised to include a statement that placement in a foster or adoptive home shall not be denied or delayed on the basis of the race, color, or national origin of the child or of the foster or adoptive home members.

In addition, this rulemaking amends Section 301.80 (Relative Home Placement) by adding to the agreement signed by the relative a provision that the relative may not use corporal punishment on the child whom the Department is placing in the relative's home. The relative also agrees that all ammunition, weapons, and registered firearms be locked up at all times and kept in places inaccessible to children, and no unregistered firearms will be present in the relative's home at any time.

Finally, the rule was amended to include that as a precondition to placing the child with a relative, the case worker is to verify that the relative is able to communicate with the child in the parent's or child's preferred language.

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Ms. Sue Howell
Office of Child and Family Policy
Department of Children and Family Services
405 E. Monroe, Station #65
Springfield, Illinois 62703-1498
Telephone: (217) 524-1983
TDD: (217) 524-3715
E-Mail: OPINFO@state.il.us

The full text of the adopted amendment begins on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY
PART 301
PLACEMENT AND VISITATION SERVICES

Section Purpose (Renumbered)
 301.1 Definition (Repealed)
 301.2 Foster Care Placement Goal (Renumbered)
 301.3 Plans to Achieve This Goal (Renumbered)
 301.4 SUBPART A: PLACEMENT SERVICES

Section Purpose
 301.10 Definitions
 301.20 Introduction
 301.30 Legal Authority to Place
 301.40 Emergency Placement Criteria
 301.50 Placement Selection Criteria
 301.60 Sibling Placement
 301.70 Relative Home Placement
 301.80 Foster Family Home Care
 301.90 Residential Care Facility
 301.100 Care in a Medical/Psychiatric Facility
 301.110 Sharing Appropriate Information with the Caregiver
 301.120 Medical Examinations for Children in Placement
 301.130 Education of Children While in Placement
 301.140 SUBPART B: VISITATION SERVICES

Section Purpose
 301.200 Family-Child Visitation
 301.210 Sibling Visitation
 301.220 Contact Among Siblings Placed Apart
 301.230 Grandparents Visitation
 301.240 SUBPART C: FOSTER CARE PLACEMENT GOAL

Section Purpose
 301.310 Foster Care Placement Goal
 301.320 Plans to Achieve This Goal
 301.330 Criminal Convictions
APPENDIX A which Prevent Placement of Children with Relatives

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

AUTHORITY: Implementing and authorized by the Children and Family Services Act (20 ILCS 505); Section 3-6-2(g) of the Unified Code of Corrections (730 ILCS 5/3-6-2(9)); Section 1-103 of the Illinois Alcoholism and Dangerous Drug Dependency Act (20 ILCS 305/1-103); the Adoption Assistance and Child Welfare Act of 1980 (42 USC 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 (705 ILCS 405/); and the Adoption Act (750 ILCS 501).

SOURCE: Adopted and codified at 7 Ill. Reg. 981, effective January 12, 1983; amended at 9 Ill. Reg. 990, effective July 1, 1985; amended at 19 Ill. Reg. 9438, effective July 1, 1995; emergency amendment at 20 Ill. Reg. 3961, effective February 16, 1996; for a maximum of 150 days; amended at 20 Ill. Reg. 4602, effective March 15, 1996; amended at 20 Ill. Reg. 9036, effective July 11, 1996; amended at 20 Ill. Reg. 9518, effective July 5, 1996; amended at 21 Ill. Reg. 13580, effective October 1, 1997; amended at 23 Ill. Reg. 1-8-6-2, effective 01/20/1999.

SUBPART A: PLACEMENT SERVICES

Section 301.20 Definitions

"Administrative case review" or "ACR" means case reviews required by 42 USCA 675-6;A-675(1) and 20 ILCS 505/1a.

"Biological-father" means a man who was not married to the mother when the child was born and who has acknowledged his paternity—*or*—when court—or—who has signed—a statement—acknowledging paternity—*or*—who is legally presumed to be the father—because he married the child's mother after the child's birth and whose name appears on the child's official record of birth or whose paternity is adjudicated in court. When paternity has been established in the above manner—the relatives of the biological father—*or*—those—*or*—of—the mother—*may*—be considered for the placement of related children.

"Child" only standard of need" means the assistance standard for cases in which no adult member is included, as established by the Illinois Department of Human Services Public Aid in 89 Ill. Adm. Code 1117 (Assistance Standards).

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents signed an adoptive surrender or voluntary placement agreement with the Department.

"Contact between siblings", as used in this Part, means telephone and written communication among siblings who are placed apart from one another.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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"Department" as used in this Part, means the Department of Children and Family Services.

"Diligent search", as used in this Part, means the efforts used by the Department to find a joint placement for siblings who must be placed apart from their families. Diligent search is further defined in Section 301.70(c) of this Part.

"Family" means one or more adults and children, related by blood, marriage, or adoption and residing in the same household.

"Father" means a man presumed to be the natural father of a child if:

= he and the child's natural mother are or have been married to each other, even though the marriage is or could be declared invalid, and the child is born or conceived during such marriage;

= after the child's birth, he and the child's natural mother have married each other, even though the marriage is or could be declared invalid, and he is named, with his consent, as the child's father on the child's birth certificate pursuant to Section 12 of the Vital Records Act;

= he and the natural mother have signed an acknowledgment of paternity in accordance with rules adopted by the Illinois Department of Public Aid under Section 10-1.7 of the Illinois Public Aid Code; or

= he and the child's mother have signed a petition to establish the parent and child relationship by consent of the parties in accordance with Section 6 of this Act.

A man can rebut a presumption of paternity before a court of jurisdiction [750 ILCS 45/5]. Father also means a man who adopts a child or has been determined by court or administrative adjudication to be the child's father.

Federally-funded foster care means foster care maintenance payments made in accordance with title IV-B of the Social Security Act for which federal matching grants are received.

"Foster care payment" means the amount paid by the Department for a child's room, board, clothing, and personal allowance in a licensed foster family home.

"Joint placement", in the context of sibling placement, means the siblings are placed in the same substitute care setting.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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"LEADS" means Law Enforcement Agency Data System.

"Parents" means the child's legal parents whose parental rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service, which is to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal. The continuous living arrangement—which the Department deems desirable for and available to the child—~~is a permanency goal~~—~~means for attaining a permanency goal as well as the goal itself~~~~as well as the~~ needs-change-or-as-the-child's-development-and-emotional-needs-change-or-as-the-child's-and-family-situations-change;

"Permanent family placement" means placement in a foster family home or a relative home which is intended to last until the child reaches age 21 or until the child is capable of self-sufficiency. The Department may assume guardianship of the child or the foster parent or relative may assume guardianship of the child.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or a court of law.

"Region" means Cook County or any of the downstate Department of Children and Family Services regions.

"Relative," for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years or age or over, other than the parent, who:

- is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, great-uncle, or great-aunt, or

- is the spouse of such a relative, or
- is the child's step-father, step-mother, or adult step-brother or step-sister.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

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"Residential facility", for the purposes of the Aristotle P. Consent Decree, means all non-foster care or relative home care placements.

"Service plan" means a written plan on a form prescribed by the Department in the plan toward the permanency goal for the children required by 42 USC 635-B-~~Setton~~ 675(5),¹ and 325 ILCS 5/8.2, and 89 Ill. Adm. Code 315 (Permanency Planning) 3057-~~Client-Service-Planning~~.

"Short-term diagnostic placement" means a placement limited to 30 days after the time period deemed clinically necessary to complete the appropriate diagnostic evaluation or treatment, and in no event shall last more than 90 days.

"Siblings" mean children in the custody or guardianship of the Department who have a shared biological or adoptive parent.

"Substitute care" means the care of children who require placement away from their families. Substitute care includes foster family care, care of a child for whom the Department is legally responsible provided in a relative family home, care provided in a group home, and care provided in a child care or other institution.

"Visitation", as used in this Subpart, means face-to-face contact between parents and their children who are in substitute care or among siblings who are placed apart from one another.

"Voluntary placement agreement" means a time-limited written request and consent from a parent, guardian or legal custodian of a child for placement of the child out of the home. When signed by designated Department staff, the department agrees to provide child welfare services which include placement.

(Source: Amended at 23 Ill. Reg. 13062, effective 13062)

Section 301.30 Introduction

Placement or substitute care services means the care of children for whom the Department is legally responsible who require a living arrangement away from their families due to abuse, neglect, dependency, voluntary surrender of parental rights or consent to adopt by a specified person, or voluntary placement agreement and for whom the Department has determined that family preservation services are not appropriate because such services are not in the child's best interest or would not protect the child from imminent risk of harm. Placement services include foster family or relative home care, care provided in a group home or child care institution or other institution. Placement is intended to be a temporary situation for the children during the time that the parents' ability to care for the child is being evaluated or the

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parents are receiving services to alleviate the problems in the home so the family can be reunited. However, there may be times when it is in the best interests of the child to seek a permanent placement away from the child's family. In these instances a permanency goal other than family reunification is sought. The complete range of permanency goals is described in 89 Ill. Adm. Code 315 (Permanency Planning) 3057-~~Client-Service-Planning~~.

(Source: Amended at 23 Ill. Reg. 13062, effective 13062)

Section 301.40 Legal Authority to Place

The Department shall not place children until it has the appropriate legal authority to do so. Such legal authority includes:

- a) temporary protective custody in accordance with the Abused and Neglected Child Reporting Act (325 ILCS 5/);
- b) adoptive surrender or consent to adoption by a specified person in accordance with the Adoption Act (750 ILCS 50/);
- c) custody or guardianship in accordance with the Juvenile Court Act of 1987 (705 ILCS 405/); or
- d) temporary custody with written consent of the parents, parent(s) or, if the child is not in the custody of either parent, written consent of the guardian or custodian of the child, in accordance with the Children and Family Services Act [20 ILCS 505]. A written consent from a parent, guardian or legal custodian requesting temporary placement services for their children ~~entitatem~~ is known as a voluntary placement agreement. A voluntary placement agreement may be entered into for a maximum of 60 days when it is in the best interests of the children. A voluntary placement agreement requires prior written approval of the administrator in charge of the Department region or designee. A voluntary placement agreement may be renewed for an additional 60 days only with the prior non-deleterious written approval of the administrator in charge of the Department region.

(Source: Amended at 23 Ill. Reg. 13062, effective 13062)

Section 301.60 Placement Selection Criteria

- a) All placement decisions will be made consistent with the safety, best interests and special needs of the child. When a child is removed from the care of a custodial parent, the placing worker shall explore whether the non-custodial ~~racial-ethnic~~ parent would be a suitable caregiver for the child. If placement with the non-custodial ~~racial-ethnic~~ parent is not consistent with the safety, best interests and special needs of the child or if the non-custodial ~~racial-ethnic~~ parent is not a suitable caregiver for the child, placement in substitute care shall be considered.

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b) Substitute care placement decisions consistent with the safety, best interests and special needs of the child shall be made in consideration of the following:

- 1) the least restrictive setting appropriate for the child which most closely approximates a family;
- 2) placement within reasonable proximity to the child's home when the permanency goal is return home, and within the child's school district, whenever possible, taking into account any special needs of the child and family, the importance of maintaining continuity of the children's educational and social relationships, and the availability of the service resources needed for the child and family;
- 3) the—child's—ethnic—ethnic—and—racial—background—and the ability of a prospective foster or adoptive parents to meet the needs of a child with this background. Placement in a foster or adoptive family home shall not be denied or delayed on the basis of the race, color, or national origin of the child, or the foster or adoptive family home members; nor shall placement for adoption of a child be denied or delayed if an approved family is available either outside of the Department's region handling the case or outside of the State of Illinois; and
- 4) placement, if the child is of American Indian heritage, according to criteria described in 89 Ill. Adm. Code 3077 (Indian Child Welfare Services).

(Source: Amended at 23 Ill. Reg. 13062, effective
11/2/1999)

Section 301.80 Relative Home Placement

a) A child for whom the Department is legally responsible may be placed in the home of a relative when the Department has reason to believe that the relative can safely and adequately care for the child in the absence of formal licensing, including training. In determining whether relative home placement is in the best interests of the child, the placing worker shall consider the child's prior relationship with the relative, the comfort level of the child with the relative, and the extent to which the relative complies with the placement selection criteria of Section 301.6(b).

b) No child under age 18 for whom the Department is legally responsible shall be placed with a relative unless the conditions for placement of the child specified in this Section have been met prior to placement of the child with the relative. Staff of the placing agency shall meet with the relative and ascertain that the relative meets the following conditions for placement and signs an agreement to that effect. The relative:

- 1) will care for no more than the number of children consistent with the number and ages of children permitted in a licensed

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foster family home (89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes);

- 2) is willing and capable of protecting the children children from harm by the Parents' parents or any other person whose actions or inactions allegedly threatened the children's children's safety or well-being as determined by a child abuse or neglect investigation pursuant to the Abused and Neglected Child Reporting Act [35 ILCS 5/];
- 3) agrees not to transfer physical custody of the children children to anyone, including parents, parents or other relatives relatives, unless previously authorized in writing by the Department;
- 4) agrees not to allow the indicated or alleged perpetrators of abuse or neglect to reside in the relative's home unless previously authorized in writing by the Department;
- 5) agrees to notify the Department of any changes in the household composition;
- 6) agrees to notify the Department of any change of address prior to moving;
- 7) agrees to seek the prior written consent of the Department for non-emergency medical, psychological, or psychiatric testing or treatment;
- 8) agrees to take the children children out of state only if previously authorized in writing by the Department;
- 9) agrees to abide by any conditions or limitations on the parent-child visitation plan which have been imposed by the court or are contained in-the-client-service-plan;
- 10) is willing to cooperate with the agency, the children's children's parents' parents and other resource persons to help develop and achieve the permanency goal recorded in the children's children's service plan; and
- 11) agrees to adequately supervise the children so they are not left in situations or circumstances which are likely to require judgment or actions greater than the child's level of maturity, physical condition, and/or mental abilities would reasonably dictate;
- 12) agrees not to subject the child to corporal punishment, verbal abuse, threats, or derogatory remarks about the child or the child's family; and
- 13) agrees that any and all firearms and ammunition shall be locked up at all times and kept in places inaccessible to children. No firearms possessed in violation of a State or federal law or a local government ordinance shall be present in the home at any time.

c) Prior to placement with relative, staff of the placing agency shall visit the home of the proposed caregiver and shall determine whether the following conditions for placement are met:

- 1) background checks of the Child Abuse Neglect Tracking System

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(CANTS) as required by 89 Ill. Adm. Code 385 (Background Checks) and a check of the Statewide Child Sex Offender Registry have been completed on all adult members of the household and children age 13 and over, communicated to the supervising agency prior to placement, and appropriate decisions made. If report of abuse or neglect exists, staff of the placing agency have made appropriate decisions whether the child should be placed with the relative based on the following considerations:

- A) the type of indicated abuse and neglect;
- B) the age of the individual at the time of the report;
- C) the length of time that has elapsed since the most recent indicated report;
- D) the relationship of the report to the ability to care for the related children and the following considerations:
- E) evidence of successful parenting;
- 2) a check of the Law Enforcement Agency Data System (LEADS) on all adult members of the household is completed prior to placement of the related children *child(ren)*. If the results of the LEADS check identify prior criminal convictions listed in Appendix A of 19 Ill. Adm. Code 3017 [Placement and Visitation Services] for any adult member of the household, children *child(ren)* shall not be placed in the relative's home unless a waiver has been granted in accordance with the requirements of Appendix A of this Part;
- 3) the home is free from observable hazards;
- 4) prescription and non-prescription drugs, dangerous household supplies, and dangerous tools *weapons/guns-and-ammunition* are stored in places inaccessible to children;
- 5) any and all firearms and ammunition are locked up at all times and kept in places inaccessible to children;
- 6) basic utilities — (water, heat, electricity) — are in operation;
- 7) sleeping arrangements are suitable to the age and sex of the children *child(ren)*;
- 8) meals can be provided daily to the related children *child(ren)* in sufficient quantities to meet the children's *child(ren)*'s nutritional needs;
- 9) supervision of the related children *child(ren)* can be assured at all times including times when the relative is employed or otherwise engaged in activity outside of the home;
- 10) the relative can provide basic necessities for themselves and their own children *child(ren)*;
- 11) the relative can access health care and provide necessary in-home support for any health care needs of the related children *child(ren)*;
- 12) no member of the household appears to have a communicable disease which could pose a threat to the health of the related children *child(ren)* or an emotional or physical impairment which could affect the ability of the caregiver to provide routine

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daily care to the related children *child(ren)* or to evacuate them safely in an emergency;

13) there is no evidence of current drug or alcohol abuse by any household member as determined by the placing agency's observations and statements provided by the relative;

14) the relative has the ability to contact the agency, if necessary, and the ability to be contacted;

15) the relative has immediate access to a telephone when the related child has medical or other special needs;

16) the relative shall cooperate with the supervising agency's educational and service plan for the child;

17) the relative is able to communicate with the child in the parent's or child's preferred language.

d) prior to or concurrent with placement in a relative's home, staff of the placing agency shall document, on the form prescribed by the Department, that the conditions for placement prescribed by this Section have been met.

e) The supervising agency shall reassess the appropriateness of the relative home placement on an ongoing basis and at least prior to each administrative case review or at any point the supervising agency has reason to believe the relative caregiver can no longer safely or adequately care for the children *child(ren)*. Appropriateness is determined by the extent to which the home is in compliance with the conditions described in subsections (b) and (c) above and by an evaluation of the continued safety of the children, including an evaluation of any pending criminal charges against any adult members of the household.

f) The Department may, after providing notice as required by 89 Ill. Adm. Code 3377 (Service Appeal Process), move the child to another placement if the department determines, based on the consideration and assessment of the continuing safety and well-being of the child, the child's permanency goal, and the best interests or special needs of the child, that an alternative placement is necessary.

g) Only placements in licensed foster family homes receive the foster care payment rate. Relatives who care for children for whom the Department is legally responsible may, but need not, apply for licensure as a foster family home in accordance with the requirements of 89 Ill. Adm. Code 4027 (Licensing Standards for Foster Family Homes). When a relative is licensed under Part 402, the relative will receive the established foster care payment rate appropriate for the number and ages of foster children placed in care. Relatives who are unlicensed receive the child only standard of need.

(Source: Amended at 23 Ill. Reg. 13062, effective 01/20/99)

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- 1) Heading of the Part: Approval of New Units of Instruction, Research and Public Service at Public Institutions
- 2) Code Citation: 23 Ill. Adm. Code 1050
- 3) Section Numbers: Adopted Action:
 1050.10 Amendment
 1050.20 Amendment
 1050.30 Amendment
 1050.40 Amendment
- 4) Statutory Authority: Implementing Section 7 and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/7 and 9.05].
- 5) Effective Date of Amendments: October 13, 1999.
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 25, 1999 at 23
Ill. Reg. 7190
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference between Proposal and final version: Section source notes were added, the heading of the Act was corrected in the Authority note, and a date added to the citation in the Source note. The following additional changes were made at the request of the Joint Committee on Administrative Rules staff and the Index Department:

Section 1050.20, paragraphs and subparagraphs, the labels were removed and definitions reordered alphabetically. Under the definition of "Degree", the word "and" before the word "doctor" was underlined. Also, the language "degree required for entry into specific profession such as law or medicine" was added after the word "professional", and a comma was added after "Certificate" twice. Under the definition of "New Unit of Instruction", the word "award", the underline was removed. In the definition of "Reasonable and Moderate Extension", in the third subparagraph, the comma after the word "title" was underlined. In the definition of "Board of Control", the comma after "Universities" was struck.

In Section 1050.30, the initial words in this Section were capped.

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- Section 1050.30(a)(4)(A), on the fourth line, the word "services", the second "" was deleted. In 1050.30 (b)(1)(B), the word "implied" was changed to "implies"; and in 1050.30 (b)(2), the comma after the word "fees" was added. In 1050.30(c), "Criteria that are," and "State" was changed to "submits" was changed to "shall submit".
- In Section 1050.40(a)(2), the "(2)" was underlined, and in 1050.40(a)(2), "submits" was changed to "shall submit".
- Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- Will these amendments replace emergency amendments currently in effect? No
- Are there any amendments pending on this Part? No
- Summary and Purpose of Amendments: The adopted amendments simplify the present process for approval of new units of instruction, research and public service at public institutions to more clearly recognize the rapid changes in knowledge that create the need for changes in curricula and courses. The amendments also clarify the distinction between "new unit of instruction" and "reasonable and moderate extension", and will reduce paperwork and allow minor changes to occur without delay. The actual criteria for approval are not being changed.

The amendments also update names of public university governing boards.

- Information and questions regarding these adopted amendments shall be directed to:
- Carolyn Lorton
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, Illinois 62701
217/557-7743 or lorton@ibhe.state.il.us

The full text of the adopted amendments begins on the next page.

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TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1050
PROGRAM APPROVAL OF NEW UNITS OF INSTITUTIONS, RESEARCH AND PUBLIC SERVICEAT PUBLIC INSTITUTIONS

PART 1050

Institutions Required to Receive Approval

Section 1050.10

Definitions

Criteria for Approval

Procedures of Obtaining Approval

AUTHORITY: Implementing Section 7 and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/7 and 9.05].

SOURCE: Amended and effective April 15, 1976; rules repealed and new rules adopted and codified at 8 Ill. Reg. 1607, effective September 4, 1984; amended at 23 Ill. Reg. 1 3 0 7 4, effective [REDACTED].

Section 1050.10 Institutions Required to Receive Approval

Any campus under the governance or supervision of the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, the Board of Governors of State Colleges and Universities—the Board-of-Regents-of-the Illinois Board of Higher Education approval prior to the establishment of any new unit of instruction, research or public service.

(Source: Amended at 23 Ill. Reg. 1 3 0 7 4, effective [REDACTED])

Section 1050.20 Definitions

"Board of Control" means one of the following:

The Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the

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Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, Board-of-Governors-of-State-Colleges-and-Universities—the Board-of-Regents-of—Regency Universities or the Illinois Community College Board.

"Degree" means any designation, appellation, series of letters or words, or other symbol which signifies or purports to signify that the recipient has satisfactorily completed an organized program of study of at least one year beyond the secondary school level. It shall include, but not be limited to, the following: certificate, associate, bachelor, post-baccalaureate certificate, master, post-master, certificate, first professional degree required for entry into specific profession such as law or medicine, and doctor, and certificate of advanced study.

"New Unit of Instruction" means one or more of the following:

Any new organized program of study beyond the secondary school level which results in the formal award of a degree to a student of-a-new-degree.

Any organized program of study beyond the secondary school level which is offered at a new geographical location and results in the award to a student of an existing degree (i.e., one which is currently granted by the institution).

Any new formally organized administrative entity which would have a continuing instructional mission, including but not limited to a campus, branch, college, school, department or division.

"New Unit of Public Service" means any new formally organized administrative entity that would have a continuing public service mission, including but not limited to a school, department, division, institute or center.

"New Unit of Research" means any new formally organized entity that would have a continuing research mission, including but not limited to a school, department, division, institute or center.

"Reasonable and Moderate Extension" means one or more of the following:

An addition to or modification of an existing unit of instruction which has a direct relationship to the existing unit and which does not result in a significant change in curriculum, objectives or resources for the unit of instruction.

An addition to or modification of an existing unit of research or

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public service which has a direct relationship to an existing unit of instruction, research or public service; is consistent with the existing research or public service mission of the campus; and will be concluded within a well defined time frame.

A change in classification, the title or degree designation of an existing unit of instruction, research or public service that more accurately reflects the content, objectives, and programmatic activities for the unit.

An addition of a certificate program from one or more existing units of instruction.

(Source: Amended at 23 Ill. Reg. 13074, effective [1] 1/3/99.)

Section 1050.30 Criteria for Approval

The Illinois Board of Higher Education will evaluate new units of instruction, research or public service by applying the following criteria:

a) Criteria which are applicable to all units of instruction, research and public service.

1) Mission and Objectives

A) The objectives of the unit of instruction, research or public service are consistent with the mission of the college or university.

B) The objectives of the unit of instruction, research or public service are consistent with what the unit title implies.

2) Academic Control

The design, conduct, and evaluation of the unit of instruction, research or public service under the direct and continuous control of the sponsoring institution's established processes for academic planning and quality maintenance.

3) Faculty and Staff

A) The academic preparation and experience of faculty and staff ensure that the objectives of the unit of instruction, research or public service are met.

B) The academic preparation and experience of the faculty and staff, as evidenced by level of degrees held, professional experience in the field of study and demonstrated knowledge of the field, ensure that they are able to fulfill their academic responsibilities.

C) The involvement of faculty in the unit of instruction, research or public service is sufficient to cover the various fields of knowledge encompassed by the unit, to sustain scholarship appropriate to the unit, and to assure curricular continuity and consistency in student evaluation.

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D) Support personnel, including but not limited to counselors, administrators, clinical supervisors, and technical staff, which are directly assigned to the unit of instruction, research or public service, have the educational background and experience necessary to carry out their assigned responsibilities.

4) Support Services

A) Facilities, equipment and instructional resources (e.g., laboratory supplies and equipment, instructional materials, computational equipment) necessary to support high quality academic work in the unit of instruction, research or public service are available and maintained.

B) Clinical client sites necessary to meet the objectives of the unit of instruction, research or public service.

C) Library holdings and acquisitions, owned or contracted for by the institution, that are necessary to support high quality instruction and scholarship in the unit of instruction, research and public service, are conveniently available and accessible, and can be maintained.

5) Financial

A) The financial commitments to support the unit of instruction, research or public service are sufficient to ensure that the faculty and staff and support services necessary to offer the unit of instruction, research or public service can be acquired and maintained.

B) Projections of revenues necessary to support the unit of instruction, research or public service are based upon supportable estimates of state appropriations, local tax support, student tuition and fees, private gifts, and/or governmental grants and contracts.

6) Statewide Needs and Priorities

A) The unit of instruction, research or public service is educationally and economically justified based on the educational priorities and needs of the citizens of Illinois.

B) The unit of instruction, research or public service meets a need that is not currently met by existing institutions and units of instruction, research or public service.

A) The caliber and content of the curriculum assure that the objectives of the unit of instruction will be achieved. B) The breadth and depth of the curriculum are consistent with the title of the unit of instruction implies.

C) The admission and graduation requirements for the unit of instruction are consistent with the stated objectives of

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the unit of instruction.

- D) Provision provision is made for guidance and counseling of students, evaluations of student performance, continuous monitoring of progress of students toward their degree objectives and appropriate academic record keeping.
- 2) Program information which the institution provides for students and the public accurately describes the unit of instruction, including its objectives, length, residency requirements if any, schedule of tuition, fees, and all other charges and expenses necessary for completion of the unit of instruction, cancellation and refund policies, student rights and responsibilities, and such other material facts concerning the institution and the unit of instruction as are likely to affect the decision of the student to enroll. Such information shall be available to prospective students prior to enrollment.
- 3) Accreditation and licensure Appropriate steps have been taken to assure that professional accreditation needed for licensure or entry into a profession as specified in the objectives of the unit of instruction is maintained or will be granted in a reasonable period of time.
- c) Criteria that are applicable only to units of instruction to be offered temporarily off-campus:

- 1) The unit of instruction is approved for offering on campus, and the academic standards of the on-campus unit are maintained at the off-campus site.
- 2) The off-campus unit of instruction is offered under contract to a single business, service organization, or government agency and enrollment is restricted to employees of the contracting business, organization or agency.
- 3) The contractual arrangement assures that the off-campus unit of instruction is self-supporting; that is, no State resources are required to support it; and
- 4) The off-campus unit of instruction is offered to a single group of entering students for a single cycle not to exceed three years.

Should the institution wish to continue the unit of instruction at the off-campus site beyond the single cycle, the institution must submit an application for Board of Higher Education approval.

(Source: Amended at 23 Ill. Reg. 13074, effective
[01/13/99])

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service will be reviewed by the appropriate board of control. Upon approval of the appropriate board of control, the application requesting approval of the new unit of instruction, research or public service will be transmitted to the Illinois Board of Higher Education.

- 2) Before submitting an application for a new off-campus unit of instruction, the institution shall submit to the Board of Higher Education a Notice of Intent for Publication for comment.
- 3) a) If the appropriate board of control determines that the proposed unit is a reasonable and moderate extension, it will so inform the Illinois Board of Higher Education. If the Illinois Board of Higher Education does not concur in this determination an application requesting approval of the new unit of instruction, research or public service will be transmitted to the Illinois Board of Higher Education.
- b) Approval by the Illinois Board of Higher Education Upon determining that the criteria for approval are met the Illinois Board of Higher Education will approve the establishment of the new unit of instruction, research or public service, and will so inform the appropriate board of control by letter from its executive director. This letter shall constitute formal authority to establish the new unit of instruction, research or public service.

(Source: Amended at 23 Ill. Reg. 13074, effective
[01/13/99])

Section 1050.40 Procedures of Obtaining Approval

a) Approval of the Board of Control

- 1) Applications for new units of instruction, research and public

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- 1.) Heading of the Part: Customer Financial Participation
- 2.) Code Citation: 89 Ill. Adm. Code 562
- 3.) Section Numbers: 562.20
562.30
562.49A
- 4.) Statutory Authority: Implementing and authorized by Section 3(a), (b) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)].
- 5.) Effective Date of Rulemaking: October 6, 1999
- 6.) Does this rulemaking contain an automatic repeal date? No
- 7.) Does this amendment contain incorporations by reference? No
- 8.) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9.) Notice of Proposal Published in Illinois Register: July 2, 1999, 23 Ill. Reg. 7399
- 10.) Has JCAR Issued a Statement of Objections to this rulemaking? No
- 11.) Difference between proposal and final version:

The definition of "Income" has been changed to "all earned and other unearned income from all sources, including all types of public support, wages, tips, SSI, SSDI, disability payments, Worker's Compensation, interest or dividends from investments, savings, trust funds, certificate of deposits, etc.; child support, spousal support; income from rental and leased property; and private sources. The value of readily available..."

In Section 562.30(b)(8)(D), strike "and".

In Section 562.30(b)(9), strike the period and add "; and".

In Section 562.30(b)(10), change "Point, N.Y." to "Point, NY".

- 12.) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?

- 13.) Will this amendment replace an emergency amendment currently in effect?

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- 14.) Are there any amendments pending on this Part: No
- 15.) Summary and Purpose of Amendments: This rulemaking amends the customer's financial participation in the planned services needed to complete the desired employment outcome. These revisions remove the definition of "dependent" and clarify the definitions of "family" and "income." Appendix A is also revised to include the new federally generated income levels used to determine the financial participation of the customer.
- 16.) Information and questions regarding these adopted amendments shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772

The full text of adopted amendments begins on the next page:

- 1.) Notice of Proposal Published in Illinois Register: July 2, 1999, 23 Ill. Reg. 7399
- 2.) Statement of Objections to this rulemaking: No

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 562

CUSTOMER FINANCIAL PARTICIPATION

TABLE A APPENDIX A

AUTHORITY: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)].

SOURCE: Adopted at 9 Ill. Reg. 8763, effective June 10, 1985; amended at 11 Ill. Reg. 1021, effective February 18, 1987; amended at 11 Ill. Reg. 1525, effective August 31, 1987; amended at 11 Ill. Reg. 19127, effective November 9, 1987; amended at 12 Ill. Reg. 20827, effective November 30, 1988; amended at 13 Ill. Reg. 2866, effective February 17, 1989; amended at 14 Ill. Reg. 1466, effective January 8, 1990; amended at 14 Ill. Reg. 15555, effective November 5, 1990; amended at 15 Ill. Reg. 10179, effective June 24, 1991; amended at 15 Ill. Reg. 18750, effective December 17, 1991; amended at 17 Ill. Reg. 3895, effective March 15, 1993; emergency amendment at 17 Ill. Reg. 11676, effective July 1, 1993; emergency amendment at 17 Ill. Reg. 20356, effective November 15, 1993; amended at 19 Ill. Reg. 8803, effective June 20, 1995; amended at 21 Ill. Reg. 4833, effective April 1, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 1386, effective January 14, 1999; amended at 23 Ill. Reg. 13082, effective OCT 6 1999.

Section 562.20 Definitions

For the purposes of this Part, the following terms shall have the following meanings:

- CUSTOMER FINANCIAL ANALYSIS (IL 488-0265) (Financial Analysis) – the form developed by DHS-ORS to determine customer and family financial participation.

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b) Customer Financial Participation – the amount of money, as determined by the completion of the Financial Analysis, which a customer and/or the customer's family must contribute to the cost of services and the amount of any voluntary contributions the customer and/or his/her family wish to contribute to the cost of services.

Family – for the purpose of identifying those individuals included in the family when completing the Financial Analysis, the term "family" shall mean:

- For customers who are married:
the customer's spouse; and
the customer's or spouse's dependent children.
- For customers who are children dependent upon the family for support (e.g., food, lodging, medical/health assistance):
the customer's parents or step-parents; and
other dependent children residing in the home.
- Dependent – a person under the age of 24 years unless he or she does not reside in the parents' home and one of the conditions below exists:
i) is or has been married;
- i) has legal dependents other than a spouse;
- ii) is a veteran of the Armed Forces of the United States or exists;
- iii) has not been claimed as a dependent on his/her parent's income tax return for at least two years and is in fact independent of the parent's support as documented by evidence that one of the conditions below exists:
A) the person was adjudicated by a court to be emancipated or
B) the person has in fact lived independently with the exception of post-secondary education of parent(s) support or

- the person has been determined by a financial aid administrator to be eligible for financial assistance with the Higher Education Act (20 USC 1007vv);

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d) Family --for--the--purpose--of--identifying--those--individuals--who--must--be--taken--into--consideration--in--the--computation--of--the--financial--analysis--a female--shall--include--the--customer--and--all--of--the--following--individuals:

- i) the--customer's--spouse?
- 2) the--customer's--dependent--children--including--step--children--if--they--are--dependent--upon--the--customer?
- 3) parents--including--non--custodial--parents--if--the--customer's--parents--are--divorced--and--the--custodial--parent--is--not--remarried--and--step--parents?; and
- 4) the--customer's--siblings--still--residing--in--the--same--home--as--the--customer--and--who--are--still--dependent--on--the--customer's--parents?

e) Income - all earned and other unearned income from all sources, including all types of public support, wages, tips, SSI, SSDP, disability payments, worker's compensation, interest or income dividends from investments, savings, trust funds, certificates of deposit, etc.; child support, spousal support, income from rental and leased property, and private sources. The value of readily available assets (i.e., cash-on-hand, checking accounts, savings accounts, certificates of deposit, stocks, bonds, accessible trust funds) shall not also be considered as income for the purpose of completion of the Financial Analysis.

f) Services - those services provided by and through DHS-ORS to customers of the Vocational Rehabilitation Program and as described at 89 Ill. Adm. Code 590 - Services.

g) Standard Budget Allowance (SBA) - the State Median Income figures figures established by the Office of Community Programs of the United States Department of Health and Human Services which are published annually in the Federal Register.

h) Unusual Allowable Expenses - expenses directly related to the customer's or other family member's disability, such as on-going medical treatment, medication, adaptive equipment, a one-time allowance for the purchase of a van or van modification, and rehabilitation technology services, which are currently being paid by the customer and/or customer's family which are not paid for through insurance or any other source and/or cost associated with another family member attending post-secondary education which are not paid by any other source.

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Section 562.30 Financial Analysis Completion

a) A customer seeking services through DHS-ORS and the customer's his/her family must complete the Financial Analysis and must participate in the cost of services as indicated by the Financial Analysis. Failure on the part of the customer and/or customer's family to participate in the cost of vocational rehabilitation services, as indicated by the Financial Analysis, shall result in the denial of services from DHS-ORS, except for those which are exempt from financial participation and listed in subsection (b) below.

b) Customer financial participation shall be required for all services except the following:

- 1) evaluation of rehabilitation potential (however, VR services other than diagnostic services provided during a trial work period extended-evaluation require application of the financial analysis);
- 2) counseling, guidance, referral and placement (89 Ill. Adm. Code 590 - Subpart L);
- 3) fees for assessment and training (i.e., work adjustment, skills, employment) through any approved community rehabilitation program (89 Ill. Adm. Code 590);
- 4) the work/study component of the summer program and the nine month hearing impaired pre-vocational program at Northern Illinois University;
- 5) services provided through the Secondary Transitional Experience program (STEP) (89 Ill. Adm. Code - 590 Subpart L);
- 6) fees for on-the-job training (OUT);
- 7) job coaching services;
- 8) instruction provided by Rehabilitation Instructors and Mobility Instructors in the area of:
 - A) activities of daily living;
 - B) communications skills;
 - C) adjustment counseling; and
 - D) mobility instruction; and
- 9) interpreter, reader, attendant, and note taker services; and,
- 10) One evaluation component of the Helen Keller National Center, Sand Point, NY, this includes room, board and transportation.

(Source: Amended at 23 Ill. Reg. 13 0 8 2, effective [C] 06 1996 _____)

(Source: Amended at 23 Ill. Reg. 13 0 8 2, effective _____)

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Section 562. APPENDIX A Standard Budget Allowances

The Standard Budget Allowances (SBAs) are as follows:

Family Size	Annual Allowance
1	\$30,062.87-793
2	\$39,311.97-793
3	\$48,561.46-793
4	\$57,811.55-793
5	\$67,061.64-793
6	\$76,311.73-793
7	\$78,045.74-793
8	\$79,779.8-793
9	\$81,514.9-793
10	\$83,488.1-793
11	\$84,983.93-058
12	\$86,717.84-793

For families with more than 12 members, \$1734 is added for each additional member over 12.

(Source: Amended at 23 Ill. Reg. 13082, effective 10/06/1999)

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1) Heading of the Part: Safe Operation of Nuclear Facility Boilers and Pressure Vessels

2) Code Citation: 32 Ill. Adm. Code 505

Section Number:	Adopted Action:
505.20	Amendment
505.30	Amendment
505.40	Amendment
505.50	Amendment
505.60	Amendment
505.70	Amendment
505.80	Amendment
505.100	Amendment
505.110	Amendment
505.120	Amendment
505.130	Amendment
505.140	Amendment
505.150	Amendment
505.180	Amendment
505.190	Amendment
505.1000	Amendment
505.1100	Amendment
505.1200	Amendment
505.1300	Amendment
505.1400	Amendment
505.1500	Amendment
505.1600	Amendment
505.1800	Amendment
505.1900	Amendment
505.2000	Amendment
505.2100	Amendment
505.2200	Amendment
505.2300	Amendment
505.2400	Amendment
505.2500	Amendment
505.2800	Amendment
505.2900	Amendment

4) Statutory Authority: Implementing and authorized by Section 8(a)(8) of the Illinois Nuclear Safety Preparches Act [420 ILCS 5/8(a)(8)], Sections 2a and 2b of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2a and 75/2b], and Section 71(C) of the Civil Administrative Code of Illinois [20 ILCS 2005/71(C)].

5) Effective Date of Amendments: October 6, 1999

6) Does this rulemaking contain an automatic repeal date? No

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7) Does this amendment contain incorporations by reference? Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office at 1035 Outer Park Drive, Springfield, IL, and is available for public inspection.

9) Notice of Proposal. Published in the Illinois Register: July 2, 1999 (23 Ill. Reg. 7/31)

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Difference between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreement letter was issued by JCAR regarding this rulemaking.

13) Will these amendments replace an emergency amendment currently in effect?

No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: These amendments will allow synchronization of inspections of non-ISI pressure vessels subject to internal corrosion with refueling outages. The Department believes that coinciding with the timing of refueling outages will be less burdensome for pressure vessel owners and will not compromise the health and safety of the public. Inspection plans designed to coincide with such outages must be submitted to the Department for approval. This rulemaking also updates incorporations by reference of standards published by the National Board of Boiler and Pressure Vessel Inspectors, the American National Standards Institute and the American Society of Mechanical Engineers.

16) Information and questions regarding these adopted amendments shall be directed to:

Lyle J. Black
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 544-0770 (voice)
(217) 742-6133 (RDD)

The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 32: ENERGY
CHAPTER I: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER C: NUCLEAR FACILITY SAFETY

PART 505

SAFE OPERATION OF NUCLEAR FACILITY BOILERS AND PRESSURE VESSELS

SUBPART A: GENERAL

Section	
505.10	Scope
505.20	Policy
505.30	Definitions
505.40	Standards Incorporated by Reference
505.50	Exemptions
505.60	Access to Facilities and Documents
505.70	Notification of Failures
505.80	Administrative Review and Hearings - Inspection Certificates
505.90	Administrative Review and Hearings - Authorized Inspection Agency
505.100	Actions Pending Before the United States Nuclear Regulatory Commission
505.110	Address and Telephone Number for Notifications and Inquiries
505.120	Standards for Design, Construction, Operation and Inspection (general)
505.130	Registration Requirements (general)
505.140	Inspection Certificates (general)
505.150	Operation Requirements (general)
505.160	Inspection Requirements (general)
505.170	Repairs and Alterations (general)
505.180	Code Case Applications (general)
505.190	Use of Alternative Standards for Construction, Inspection and Repair (general)
505.190	Authorized Inspectors (general)

SUBPART B: ISI BOILERS AND PRESSURE VESSELS

Section	
505.1000	Standards for Design, Construction, Operation and Inspection
505.1100	Registration Requirements
505.1200	Inspection Certificates
505.1300	Operation Requirements
505.1400	Inspection Requirements
505.1500	Repairs
505.1600	Code Case Applications
505.1700	Use of Alternative Standards for Construction, Inspection and Repair
505.1800	Authorized Inspectors

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SUBPART C: NON-1SI BOILERS AND PRESSURE VESSELS

505.1900 Authorized Inspection Agencies
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Section 505.1900 Standards for Design, Construction, Operation and Inspection
 505.2000 Registration Requirements
 505.2200 Inspection Certificates
 505.2300 Operation Requirements
 505.2400 Inspection Requirements
 505.2500 Repairs and Alterations
 505.2600 Code Case Applications
 505.2700 Use of Alternative Standards for Construction, Inspection and Repair
 505.2800 Authorized Inspectors
 505.2900 Authorized Inspection Agencies

AUTHORITY: Implementing and authorized by Section 8(a)(8) of the Illinois Nuclear Safety Preparedness Act [420 ILCS 5/8(a)(8)], Sections 2a and 2b of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2a and 2b], and Section 71(C) of the Civil Administrative Code of Illinois [20 ILCS 2005/71(C)].

SOURCE: Emergency Rule adopted at 17 Ill. Reg. 15667, effective September 10, 1993; for a maximum of 150 days; adopted at 18 Ill. Reg. 2317, effective February 7, 1994; amended at 20 Ill. Reg. 6455, effective April 26, 1996; amended at 23 Ill. Reg. 1308y, effective 01/01/1995.

SUBPART A: GENERAL

Section 505.20 Policy

a) It is the intent of the Department of Nuclear Safety to implement this program in accordance with State law which provides that notwithstanding any other provision to the contrary, the Department of Nuclear Safety shall have sole (State) jurisdiction over all boilers and pressure vessels contained within or upon or in connection with any nuclear facility in this State. The Department of Nuclear Safety shall have the same authority and shall have and exercise the same powers and duties in relation to those boilers and pressure vessels under this (the Boiler and Pressure Vessel Safety) Act as the Board (of Boiler and Pressure Vessel Rules) or the (Office of the) State Fire Marshal have and exercise in relation to all boilers and pressure vessels in this State that are not included in this Section.

b) This Part is intended to implement Sections 2a and 2b of the Boiler and Pressure Vessel Safety Act in a manner consistent with the State role provided for in the ASME Code and National Board Inspection Code. The Department intends to review Inservice Inspection Plans, reports and other documentation, as provided in this Part, to determine, in

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cooperation and coordination with the NRC, compliance with the ASME Code, National Board Inspection Code and other applicable codes and standards referenced in Section 505.40 of this Part.

c) This Part is not intended to be, in any way, inconsistent with the applicable regulations, rules and requirements of the NRC. If a requirement of this Part as applied in any situation is or would be inconsistent with the regulations, rules and requirements of the NRC, the requirements of this Part shall not be applied. In addition, if the application of any requirement of this Part could affect the safety or the operation of the nuclear facility, as determined by the NRC, the Department shall apply the requirements only with the prior concurrence of the NRC, as provided for in Section 505.86 of this Part.

(Source: Amended at 23 Ill. Reg. 1308y, effective 01/01/1995)

Section 505.30 Definitions

The following definitions shall apply to this Part:

"Act" or "the Act" means the Boiler and Pressure Vessel Safety Act ~~title-Rev-Stat-#997-hb-111-ifr-Pat-3201etseq~~ [430 ILCS 75].

"Alteration" means a change to a boiler or pressure vessel made necessary by, or resulting in, a change in design requirements. Non-physical changes such as retasking of a boiler or pressure vessel shall be considered an alteration. The addition of nozzles smaller than a reinforced opening size shall not be considered an alteration.

"ANSI" means the American National Standards Institute, 1430 Broadway, New York NY 10017.

"Appurtenance" means an item attached to a stamped component that has work performed on it requiring verification by an Authorized Inspector.

"ASME" means the American Society of Mechanical Engineers, 345 E. 47th Street, New York NY 10017.

"ASME Code" means the American Society of Mechanical Engineers Boiler and Pressure Vessel Code with addenda thereto made, and incorporated by the Council of the Society and adopted and incorporated by the Department in Section 505.40 of this Part. Copies of the ASME Code may be obtained from the American Society of Mechanical Engineers.

"ASME Code Case" or "Code Case" means a document published by ASME to

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clarify the intent of the ASME Code or to provide alternative requirements to those specifically contained in the ASME Code due to special circumstances or for the use of new technology.

"Authorized Inspection Agency" means one of the following:

A department or division established by a jurisdiction which has adopted one or more Sections of the ASME Code and whose inspectors hold valid commissions issued by the National Board of Boiler and Pressure Vessel Inspectors. In Illinois, the Division of Boiler and Pressure Vessel Safety of the Office of the State Fire Marshal is the jurisdiction except for the City of Chicago; or

An inspection agency of an insurance company which is authorized (licensed) to insure and is insuring boilers and pressure vessels at nuclear facilities in this State and employs inspectors who meet the requirements of Section 505.180 and Section 505.1800 or 505.2800 of this Part, as applicable; or

An owner of boilers or pressure vessels who maintains a regularly established inspection department, whose organization and inspection procedures meet the requirements established by the Office of the State Fire Marshal.

"Authorized Inspector" means an individual who is employed by an Authorized Inspection Agency, holds a current Illinois Certificate of Competency issued by the Office of the State Fire Marshal pursuant to 41 Ill. Adm. Code 120.20 and meets the requirements of Section 505.180 and Section 505.1800 or 505.2800 of this Part, as applicable.

"Boiler" means a closed vessel used to heat water or other liquids or to generate steam or other vapors under pressure or vacuum by the application of heat resulting from the combustion of fuels, electricity, atomic energy or waste gases.

"Power boiler" means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig and includes water boilers operating at pressures exceeding 160 psig or temperatures exceeding 250° F at or near the boiler outlet.

"High pressure, high-temperature water boiler" means a water boiler operating at pressures exceeding 160 psig or temperatures exceeding 250° F at or near the boiler outlet.

"Heating boiler" means a steam heating boiler operated at pressures not exceeding 15 psig, or a hot water heating boiler operated at pressures not exceeding 160 psig or temperatures not exceeding 250° F at or near the boiler outlet.

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"Hot water supply boiler" means a boiler (including fired storage water heater) furnishing hot water to be used externally to pressures not exceeding 160 psig or temperatures not exceeding 250° F at or near the boiler outlet.

"Certificate inspection" means an inspection, the report of which is used by the Department as justification for issuing, withholding or revoking the Inspection Certificate.

"Condemned boiler or pressure vessel" means any boiler or pressure vessel, including related appurtenances, that has been inspected and declared unsafe or disqualified by legal requirements, by the Department.

"Department" means the Department of Nuclear Safety of the State of Illinois.

"Design pressure" means the pressure used in the design of a boiler or pressure vessel for the purpose of determining the minimum permissible thickness or physical characteristics (e.g., material properties) of different parts of the vessel, in accordance with design standards of the ASME Code.

"Director" means the Director of the Department of Nuclear Safety of the State of Illinois.

"External inspection" means as complete an examination as can reasonably be made of the external surfaces of a boiler or pressure vessel. This examination shall be made while it is in operation, if possible.

"Inoperative" means a boiler or pressure vessel that itself or an attached appurtenance that is no longer capable of functioning within its design requirements. The inability of support equipment to operate does not cause a boiler or pressure vessel to be considered inoperative.

"Inservice inspection interval" means the period of time during which inservice examinations and system pressure tests are performed, as defined by the owner in accordance with the ASME Code Section XI.

"Inservice inspection period" means a subdivision of the inservice inspection interval, as defined by the owner in accordance with the ASME Code Section XI.

"Inservice Inspection Plan" means the documents prepared by the owner in accordance with Paragraph IWA-420 of the edition and addenda of Section XI approved by the NRC for use by the plant (10 year plan).

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"Inspection" means examination and evaluation of documents and hardware by an Authorized Inspector to determine conformance of an item or an activity to the requirements of this Part.

"Inspection Certificate" means a certification issued by the Department for the operation of a non-ISI boiler or pressure vessel or nuclear power system.

"Internal inspection" means as complete an examination as can reasonably be made of the internal surfaces of a boiler or pressure vessel while it is shut down and manhole plates, handhole plates or other inspection opening closures are removed as required by the Authorized Inspector.

"ISI boiler or pressure vessel" means any boiler or pressure vessel, including related appurtenances, that is in the owner's Inservice Inspection Plan.

"Maintenance" means routine activities conducted on an item that are performed and controlled in accordance with the owner's procedures, including minor restorative actions, that are not otherwise classified as a repair, replacement or alteration.

"Maximum Allowable Working Pressure" or "MAWP" means the maximum gauge pressure permissible (in accordance with the design requirements) at the top of a vessel in its operating position at the design temperature. This pressure is the least of those calculated for every element of the vessel using nominal thickness exclusive of allowances for corrosion and thickness required for loadings other than pressure.

It is the basis for the pressure setting of the pressure relieving devices (e.g., pressure relief valves) protecting the vessel. The design pressure may be used in place of the maximum allowable working pressure in all cases for which calculations are not made to determine the value of the maximum allowable working pressure.

"National Board" means the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus OH 43229

"National Board Inspection Code" means the National Board Inspection Code-A-Manual-for-Boiler-and-Pressure-Vessels-Inspectors, published by the National Board and adopted and incorporated by the Department in Section 505.40 of this Part. Copies may be obtained from the National Board.

"NFPA" means the National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02269.

"Non-ISI boiler or pressure vessel" means any boiler or pressure

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"vessel, including related appurtenances, that is not in the owner's Inservice Inspection Plan."

"Non-standard boiler or pressure vessel" means any boiler or pressure vessel, including related appurtenances, that does not bear the ASME Code Symbol Stamp.

"NRC" means the United States Nuclear Regulatory Commission or any agency which succeeds to its function in the licensing of nuclear power reactors or facilities, or facilities for spent nuclear fuel.

"Nuclear facility" means a nuclear power station. There may be one or more nuclear power systems at a nuclear power station.

"Nuclear power system" means all ISI boilers and pressure vessels in a unit, including their appurtenances, at a nuclear facility that are inspected in accordance with an Inservice Inspection plan. Such components are generally associated with systems that serve the purpose of producing and controlling the output of thermal energy from nuclear fuel and associated systems essential to the function and overall safety of the nuclear power system.

"Outage" means temporary suspension of operation of a component or system to conduct actions such as maintenance, forced repairs, or testing of equipment.

"Owner" means any organization, person, firm or corporation legally responsible for the safe operation of any boiler or pressure vessel at a nuclear facility within the State.

"PSIG" means pounds per square inch gauge and is a measure of pressure.

"Pressure relief valve" means a safety valve, relief valve or safety relief valve.

"Pressure vessel" means an enclosed vessel in which pressure is obtained from an external source, or by applying heat from an indirect source or from a direct source other than boilers as defined in this Section above. Reactor containments are not considered pressure vessels.

"Quality Assurance Program" means a controlled system of planned and systematic actions required to provide adequate confidence that the items designed and constructed are in accordance with the rules of the ASME Code Section III; or all the planned and systematic actions necessary to provide adequate confidence that a structure, system or component will perform satisfactorily in service in accordance with

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Appendix B of 10 CFR 50, as applicable.

"Refueling outage" means temporary suspension of power production of the nuclear power system to conduct actions, including refueling the reactor. Refueling outages normally occur approximately every 2 years.

"Reinstalled boiler or pressure vessel" means any boiler or pressure vessel, including related appurtenances, removed from its original setting and reinstalled at the same location or at a new location within the State of Illinois without change of ownership.

"Relief valve" means an automatic pressure relieving device actuated by the static pressure upstream of the valve which opens further with the increase in pressure over the opening pressure. It is used primarily for liquid service.

"Repair" means the process of restoring a nonconforming item by welding or brazing such that existing design requirements are met.

"Report of inspection" means a report prepared by an Authorized Inspector which documents that a non-101 Boiler or pressure vessel meets the requirements of this Part for installation and periodic inspection.

"Reportable event" means any accident which either causes a boiler or pressure vessel to become inoperative due to damage from an explosion, catastrophic event or failure due to material condition, of either itself or an attached appurtenance, or results in death or bodily injury to a person.

"Rerating" means the increase of the MAWP or temperature of a boiler or pressure vessel regardless of whether physical work is performed on the boiler or pressure vessel. Rerating shall be considered an alteration.

"Safety relief valve" means an automatic pressure actuated relieving device suitable for use as a safety or relief valve, depending on application.

"Safety valve" means an automatic pressure relieving device actuated by the static pressure upstream of the valve and characterized by full opening pop action. It is primarily used for gas or vapor service.

"State Special" means a boiler or pressure vessel, including related appurtenances, of special construction that may not be constructed in accordance with the ASME Code. See Sections 505.170, 505.1700 and 505.2700 of this Part for the procedures for granting a State Special.

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"Special Inspector" means an Inspector holding an Illinois Certificate of Competency and a Commission issued by the Office of the State Fire Marshal (OSFM) and who is regularly employed by an insurance company which is authorized (licensed) to insure and is insuring boilers and pressure vessels at nuclear facilities in this State.

"Technical specifications" means part of the Updated or Final Safety Analysis Report and Operating License issued by the NRC that designates safety limits, limiting safety system settings, limiting conditions for operation and surveillance requirements for the safe operation of the nuclear facility.

"Underwriters Laboratories" (U.L.) means a non-profit independent organization testing for public safety. It maintains and operates laboratories for the examination and testing of devices, systems and materials to determine their relationship to life, fire and casualty hazards.

"Updated or Final Safety Analysis Report" means a report required by the NRC in accordance with 10 CFR 50.33.

"Welding" means a group of processes wherein coalescence is produced by heating with an arc or arcs, with or without the application of pressure and with or without the use of filler metal.

(Source: DC 06/1999) at 23 Ill. Reg. 13089, effective 13089,

Section 505.40 Standards Incorporated by Reference

The Department hereby adopts and incorporates by reference the following codes and standards.

a) In accordance with the authority granted under Section 2a of the Act, the Department adopts the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers with addenda thereto made. Those Sections of the ASME Code listed in this Section below are incorporated into and constitute a part of the whole rules and regulations of the Department.

- 1) ASME Boiler and Pressure Vessel Code, 1992 Edition including all addenda editions through the ASME Boiler and Pressure Vessel Code, 1998-1995 Edition, for the following.

AGENCY NOTE: The edition and addenda of the ASME Boiler and Pressure Vessel Code applicable to a particular component can be traced using the date of construction of the component in light of Sections 505.170, 505.1700 and 505.2000 of this Part. For more information see Sections 505.170, 505.1700 and 505.2000 of this Part.

A) Section I, Rules for Construction of Power Boilers;

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means other than application of heat, e.g., water softeners, water filters, dealkalizers and demineralizers, provided the following conditions are met; that:

- A) The temperature of such vessels is maintained below 212 degrees Fahrenheit;
- B) No heat is applied to the water after being placed into such vessels; and
- C) No heat is applied either directly or indirectly to such vessels.

- 5) Hot water supply boilers which are directly fired with oil, gas or electricity, provided when none of the following limitations are exceeded:
 - A) Heat input of 200,000 BTU/hr.; or
 - B) Water temperature of 200° F; or
 - C) Nominal water containing capacity of 120 gallons.
- 6) Coil type hot water boilers where the water can flash into steam when released directly to the atmosphere through a manually operated nozzle, provided the following conditions are met:
 - A) There is no drum, headers or other steam spaces;
 - B) No steam is generated within the coil;
 - C) Outside diameter of tubing does not exceed 1 inch;
 - D) Pipe size does not exceed 3/4 inch;
 - E) Water capacity of the unit does not exceed 6 U. S. gallons; and
 - F) Water temperature does not exceed 350° F.

- 7) ISI pressure vessels which have a surveillance requirement in the plant technical specifications or are continuously monitored or are routinely subjected to examinations and tests (e.g., visual examinations and pressure tests), other than those required in this Part but that are determined by the Department to give an assurance of structural integrity at least equal to that provided by the examinations and test required by this Part, of the Act.
- 8) Other boilers and pressure vessels listed under Section 5(a) of the Act.

- b) Boilers and pressure vessels listed under Section 5(b) of the Act shall be subject to the requirements of this Part (e.g., design, construction and registration) except for those requirements pertaining to inspection, Inspection Certificates and penalties for operating without a valid Inspection Certificate.

(Source: Amended at 23 Ill. Reg. 13089, effective _____)

Section 505.60 Access to Facilities and Documents

Upon prior notice and subject to requirements contained in the Memorandum of Understanding, Subagreement No. 2, between the Department and the NRC, effective May 15, 1990, representatives of the Department or an Authorized

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Inspector may enter upon any privately or publicly owned property in this State where a boiler or pressure vessel, including related appurtenances, or a part thereof is being designed, constructed, installed or used within or upon or in connection with a nuclear facility in this State to ascertain whether such boiler or pressure vessel or part thereof is designed, constructed, installed and inspected in accordance with the standards of this Part. In addition to the documents required by this Part, owners shall make available to the Department additional documents as the Department determines are required to verify ASME Code and National Board Inspection Code compliance in accordance with this Part. These documents may include, but need not be limited to, such documents as a Quality Assurance Program in effect at the nuclear facility meeting the requirements of the ASME Code, or the details of flaw evaluations, meeting the requirements of this Section are subject to the limitations of Section 505.20(c) of this Part.

AGENCY NOTE: Documentation required to be made available under this Section shall be relevant to a determination of compliance with this Part.

(Source: [Amended at 23 Ill. Reg. 13089, effective _____])

Section 505.70 Notification of Failures

- a) Any owner, which includes any person, firm, partnership, corporation or government entity, that knowingly fails to notify the Department within 24 hours, or the next business day, after a reportable event, or after any bodily injury or death to any person caused by a reportable event, is guilty of a Class B misdemeanor, if a natural person, or a business offense punishable by a fine of not less than \$501 and not more than \$10,000, if a corporation or government agency.
- b) In the case of a reportable event, the owner of the affected boiler or pressure vessel may take whatever measures it determines in its sole discretion are necessary to give emergency assistance to injured persons or to alleviate any threat to the public health and safety.
- c) In the case of a reportable event, the owner may not move, disturb or repair the affected boiler or pressure vessel until the Department has been given the opportunity to examine the boiler or pressure vessel within 12 twelve hours after the reportable event, except that the owner may initiate an investigation, including the gathering of material for samples and the taking of any ancillary action necessary for such sample gathering, where the owner either determines that such activities will not substantially interfere with the Department's subsequent examination or provides a record of the initial circumstances sufficient to provide the Department with an accurate report of the condition which was obtained before the owner initiated its activities.
- d) The requirements of this Section shall apply to any boiler or pressure vessel including those exempt under Section 505.50 of this Part.

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(Source: Amended at 23 Ill. Reg. 13 08 9, effective
[C] 06 1999)

Section 505.82 Administrative Review and Hearings – Authorized Inspection Agency

This Section shall apply to any action by the Department to deny an application for, or to suspend or revoke, departmental recognition of an Authorized Inspection Agency.

a) An owner or organization aggrieved by the Department's action pursuant to Sections 505.190(b)(f) or 505.190(d)(f) of this Part may within 15 days submit a written request for hearing to the Department, which shall thereafter hold an adjudicative hearing in accordance with Section 16 of the Boiler and Pressure Vessel Safety Act, the Illinois Administrative Procedure Act and 32 Ill. Adm. Code 200.

1) If, after the hearing, the Director finds that the owner or organization was in compliance with the requirements of this Part, the Director shall issue an order directing that recognition be extended to the organization.

2) If, after the hearing or default, the Director finds that the owner or organization is not in compliance with the requirements of this Part, the Director will render a final decision which may include denying the application for recognition.

b) All final administrative decisions of the Director under this Part shall be subject to judicial review pursuant to Section 16 of the Boiler and Pressure Vessel Safety Act.

(Source: Amended at 23 Ill. Reg. 13 08 9, effective
[C] 06 1999)

Section 505.100 Standards for Design, Construction, Operation and Inspection (General)

Please refer to Section 505.1000 of this Part for ISI boilers and pressure vessels and Section 505.2000 of this Part for non-ISI boilers and pressure vessels.

(Source: Amended at 23 Ill. Reg. 13 08 9, effective
[C] 06 1999)

Section 505.110 Registration Requirements (general)

- a) The requirements of this Section are subject to the limitations of Section 505.20(c) of this Part.
- b) The owner of a nuclear facility shall register with the Department all boilers and pressure vessels contained within or upon or in connection with the nuclear facility unless exempt under Section 505.50(a) of this Part. For each boiler and pressure vessel installed after

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February 7, 1994, that has not been registered with the Department, the owner shall register the boiler or pressure vessel prior to its operation in accordance with this Section and either Section 505.1100 or 505.2100 of this Part, as applicable, as follows:

i) For each boiler and pressure vessel already in operation and registered with the Office of the State Pipe Marshal on February 7, 1994 or before August 6, 1994, the owner shall submit on or before August 6, 1994 evidence supporting existing registration through the Office of the State Pipe Marshal and the additional information required by Section 505.1100 or 505.2100 of this Part as applicable; Such evidence shall include the serial number assigned to the boiler or pressure vessel and the nuclear power system to which the boiler or pressure vessel belongs;

ii) For each boiler and pressure vessel already in operation and not registered with the Office of the State Pipe Marshal on February 7, 1994 or before August 6, 1994, the owner shall submit on or before May 8, 1994 the information required by Section 505.1100 or 505.2100 of this Part as applicable;

iii) For each boiler and pressure vessel installed after February 7, 1994 or the owner shall register the boiler or pressure vessel prior to its operation in accordance with Section 505.1100 or 505.2100 of this Part as applicable;

c) Manufacturer's After-February 7, 1994 Data Reports shall be filed by the owner with the Department for new installation and reinstallation of boilers and pressure vessels at nuclear facilities unless otherwise exempted by Section 505.50(a) of this Part. If a boiler or pressure vessel is of special design or will not bear the ASME stamp, then the owner shall additionally comply with the requirements of Sections 505.170 and 505.1700 or Section 505.2700 of this Part for non-ASME Code ISI or non-ISI boilers and pressure vessels, respectively.

AGENCY NOTE: Data Reports as used in this subsection (c) refers to those documents completed as required by the construction code applicable to the boiler or pressure vessel. Each boiler or pressure vessel subject to the Act shall be identified by a serial number of the State of Illinois. If a State serial number has not already been assigned by the OSPB, a number will be assigned by the Department and applied by the Authorized Inspector. Additionally, the ASME Code required stamp shall be kept free of paint and lagging so that it will be plainly visible and easily read by the Authorized Inspector.

The State serial number on boilers shall not be less than 5/16" in height and shall be preceded by the letters "ILL" which shall also be not less than 5/16" in height. The State serial number on unfired pressure vessels shall be not less than 5/16" in height and be preceded by the letters "ILL" and the letter "U" which also shall be not less than 5/16" in height. The Authorized Inspector shall make

e) not less than 5/16"

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certain that the correct Illinois State serial number is affixed to the boiler or pressure vessel.

f) The requirements of subsections (d) and (e) of this Section for the physical application of the State serial number may be waived if a system to identify the boiler or pressure vessel with the assigned State serial number has been established and the system of identification is acceptable to the Department. An alternative system for the identification of boilers and pressure vessels with assigned State serial numbers shall be acceptable to the Department if the alternative system readily and unambiguously allows the Department and Authorized Inspector to track the inspection status of the boilers and pressure vessels using the State serial numbers. Acceptable alternative systems of identification may include, but are not limited to, the use of cross-reference lists between assigned State serial numbers and any of the following: National Board serial numbers; manufacturers' names and serial numbers; or plant equipment identification numbers as shown on controlled plant system identification drawings provided to the Department.

g) A Certificate Inspection shall be made of all used or second-hand boilers or pressure vessels prior to operation at a nuclear facility in this State. In a case where a boiler or pressure vessel is moved and reinstated the fittings and appliances shall be upgraded to comply with the rules for new installations.

(Source: Amended at 23 Ill. Reg. 13089, effective 10/6/1999)

Section 505.120 Inspection Certificates (general)

a) Inspection Certificates for nuclear power systems shall be issued in accordance with Section 505.1200 of this Part. Inspection Certificates for non-ISI boilers and pressure vessels shall be issued in accordance with Section 505.2200 of this Part. Both nuclear power systems and non-ISI boilers and pressure vessels and their Inspection Certificates shall be subject to the provisions of subsections (b) and (c) of this Section below.

b) Owners shall keep the Inspection Certificate in an accessible location.

c) Boilers and pressure vessels that change classification (i.e., to or from ISI or non-ISI) as a result of additions to or deletions from the Inservice Inspection Plan shall be subject to the registration and submittal requirements of the new classification. To reduce the administrative burden on the owner, the owner need only inform the Department of all previous submittals made on behalf of existing registration which the owner intends to apply to the new classification.

(Source: Amended at 23 Ill. Reg. 13089, effective 10/6/1999)

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Section 505.140 Inspection Requirements (general)

- a) The requirements of this Section are subject to the limitations of Section 505.20(c) of this Part.
- b) If, upon inspection and notification by an Authorized Inspector, a boiler or pressure vessel at a nuclear facility is found to be in such condition that it is unsafe to operate, the Department, subject to the limitations of Section 505.20(c) of this Part, shall act to suspend the Inspection Certificate in accordance with Section 505.80 of this Part.
- c) Owners shall assure that examinations and tests are conducted in accordance with the methods and frequencies established by this Part.
- d) In addition to the reporting frequencies specified in this Part, the owner shall report to the Department within 72 hours when, on the basis of observation or objective information, the owner has reason to believe that an ISI or non-ISI boiler or pressure vessel or nuclear power system does not meet the standards of this Part.
- e) Inspections shall be conducted by Authorized Inspectors.

(Source: Amended at 23 Ill. Reg. 13 0 8 9, effective**Section 505.190 Authorized Inspection Agencies (general)**

- they have knowledge of a nuclear power system or an ISI or non-ISI boiler or pressure vessel that:
- 1) is being operated without a valid Inspection Certificate;
- 2) is being operated at a pressure which exceeds indicated pressure on the Inspection Certificate; or
- 3) otherwise deviates from the requirements of this Part.

e) Authorized Inspectors inspecting ISI boilers or pressure vessels or nuclear power systems shall meet the requirements of Section 505.180 of this Part.

(Source: Amended at 23 Ill. Reg. 13 0 8 9, effective**Section 505.150 Repairs and Alterations (general)**

Please refer to Section 505.1500 of this Part for ISI boilers and pressure vessels and Section 505.2500 of this Part for non-ISI boilers and pressure vessels.

(Source: UCG 06/1999 at 23 Ill. Reg. 13 0 8 9, effective**Section 505.180 Authorized Inspectors (general)**

- a) To inspect ISI or non-ISI boilers or pressure vessels at nuclear facilities within the State an individual shall hold a Commission as a Special Inspector and an identifying commission card issued by the Office of the State Fire Marshal as provided in Section 8 of the Act.
- b) If an Authorized Inspector finds that the boiler or pressure vessel or any of its appurtenances are in an unsafe condition the Authorized Inspector shall immediately notify the Department and submit a report of the defects.
- c) The requirements of this Section are subject to the limitations of Section 505.20(c) of this Part.
- d) Authorized Inspectors shall perform all duties required of them under the ASME Code or the National Board Inspection Code, as applicable. Authorized Inspectors shall notify the Department within 7 days if

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- they have knowledge of a nuclear power system or an ISI or non-ISI boiler or pressure vessel that:
- 1) is being operated without a valid Inspection Certificate;
- 2) is being operated at a pressure which exceeds indicated pressure on the Inspection Certificate; or
- 3) otherwise deviates from the requirements of this Part.

e) Authorized Inspectors inspecting ISI boilers or pressure vessels or nuclear power systems shall meet the requirements of Section 505.180 of this Part.

(Source: Amended at 23 Ill. Reg. 13 0 8 9, effective**Section 505.190 Authorized Inspection Agencies (general)**

- a) An organization—that—is—providing—ASME—Code—or—National—Board—Inspection—Code—Inspection—Services—at—a—nuclear—Facility—on—February—77—1994—shall—be—automatically—recognized—by—the—Department—as—an—Authorized—Inspection—Agency.—Such—an—Organization—shall—on—or—before—March—97—1997—notify—the—Department—in—writing—that—it—is—providing—such—Inspection—Services.—The—Notification—Shall—Also—List—the—ASME—Code—Sections/National—Board—Inspection—Code—for—which—it—Conducts—Inspection—Activities?

b) An organization that wishes to provide ASME Code or National Board Inspection Services at a nuclear facility but—is—not doing so—on—February—77—1994 shall be recognized as an Authorized Inspection Agency by the Department in accordance with subsection (b) of this Section ~~for~~^{below} prior to providing ASME Code or National Board Inspection Code inspection services at a nuclear facility. Such an organization shall submit the following to the Department:

- 1) A written request for recognition as an Authorized Inspection Agency;
- 2) A list of the names of Authorized Inspectors employed; and
- 3) A written description of the types of inspections that the organization will perform and the ASME Code Sections/National Board Inspection Code for which it will conduct inspection activities.

AGENCY NOTE: An Authorized Inspection Agency already recognized by the Department does not need to resubmit the documents specified in this subsection (a).

b) The Department shall, within 90 days after receipt of an organization's request submitted pursuant to this Section, recognize the organization as an Authorized Inspection Agency upon determining that it has demonstrated in the requirements in those ASME Code Sections/National Board Inspection Code for which it wishes to provide inspection services. If it is determined that an organization's request submitted pursuant to this Section does not meet the

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requirements of this Section, the Department shall take action under:
 AGENCY NOTE: Qualification, duty and other requirements for organizations in subsections (a) and (b) of this Section ~~and-refer-above~~ shall be in accordance with the latest edition and addenda of the ASME code/National Board Inspection Code reference in Section 505.40 of this Part.

cd) The Office of the State Fire Marshal of the State of Illinois is exempt from all the requirements of this Section.

de) If the Department determines that an Authorized Inspection Agency is not qualified, the Department shall act to suspend or revoke its recognition of the Authorized Inspection Agency under Section 505.82 of this Part.

AGENCY NOTE: Applicable ASME Code Sections/National Board Inspection Code as used in this Section means those under which the inspection agency is performing inspection activities. Departmental reviews will determine whether the organization meets all requirements for Authorized Inspection Agencies as found in the most recent edition and addenda of the ASME Code or National Board Inspection Code, as applicable, referenced in Section 505.40 of this Part.

f) Authorized—Inspection—Agencies—that—are-writing-boilers-or-pressure-vessel-risks-on—February—7—1994—that—are-writing-boilers-or-pressure-vessel-risks-on—before—March—27—1994—that-notify—the-Department-of-all-such-risks-being-written—
 eg) Following—the-notification-of—subsection—(f)—above, Authorized Inspection Agencies shall notify the Department within 30 days of all new boiler or pressure vessel risks written.

fh) Within 30 days following each inspection required by this Part, the Authorized Inspection Agency shall submit an accurate report of the results of such inspection to the Department in accordance with this Part.

(Source: Amended at 23 Ill. Reg. 13 0 8 9 , effective _____)

SUBPART B: ISI BOILERS AND PRESSURE VESSELS

Section 505.1000 Standards for Design, Construction, Operation and Inspection

ISI boilers and pressure vessels, including related appurtenances, except those exempt under Section 505.50(a) of this Part, installed or operated within or upon or in connection with a nuclear facility in Illinois shall be designed, constructed, installed, stamped, examined, tested, repaired, altered and inspected in accordance with Sections III and XI of the ASME Code or with other codes and standards as reflected in the facility's Operating License, Final Safety Analysis Report, technical specifications or other licensing documents as required or approved by the NRC.

(Source: Amended at 23 Ill. Reg. 13 0 8 9 , effective _____)

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Section 505.1100 Registration Requirements

For registration of each ISI boiler and pressure vessel, except those exempt under Section 505.50(a) of this Part, the owner shall submit the following to the Department. If the submittal applies to a collection of ISI boilers and pressure vessels, the owner shall submit the documentation once for the ISI boilers and pressure vessels included in the submittal. If it is determined that any of the documents have previously been submitted to the Department or the Office of the State Fire Marshal, the owner does not have to resubmit them.

a) A controlled copy of the Inservice Inspection Plans for the nuclear power system;

b) Cross references to the State serial numbers, and National Board serial numbers if applicable, for all ISI boilers and pressure vessels in the Inservice Inspection Plan;

c) A For-a-nuclear-power-system-that-has-not-yet-completed-the-first-inspection-period preservice inspection summary report reports for the nuclear power system;

d) For-ISI-boilers-and-pressure-vessels-in-operation-on-February-7-1994:
 i) The Owner's Data Report-form-NFS-1-6-ASME-Code-Section-Kit-for-inservice-inspections-conducted-during-the-inservice-inspection-interval-in-effect-on-February-7-1994;
 ii) The Owner's Data Report-form-NFS-2-6-ASME-Code-Section-Kit-for-repair-or-replacement-of-boilers-and-pressure-vessels-conducted-during-the-inservice-inspection-interval-in-effect-on-February-7-1994; and

iii) The Owner's Data Report-form-NFS-3-6-ASME-Code-Section-Kit-for-inservice-inspections-conducted-during-the-inservice-inspection-interval-in-effect-on-February-7-1994;

e) For boilers and pressure vessels covered by this Section, owners shall meet the requirements of Section 505.110 of this Part.

(Source: Amended at 23 Ill. Reg. 13 0 8 9 , effective _____)

Section 505.1200 Inspection Certificates

This Section is not intended to be, in any way, inconsistent with the applicable regulations, rules and requirements of the NRC. If a requirement of this Section, as applied in any situation or would be inconsistent with the regulations, rules and requirements of the NRC, the requirements of this Section shall not be applied. The Department will take action in regard to an inspection certificate only in accordance with Section 505.80 of this Part. The Department shall issue inspection certificates for nuclear power systems in accordance with this Section if the reports, programs and plans required to be submitted by this Section, Sections 505.110 and r 505.1100 of this Part, and

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this--Section are submitted in accordance with the frequencies and standards specified herein and are in compliance with this Part.

a) Owners of nuclear power systems already-in-operation--on--February--77-99 shall not operate such nuclear power systems after February--77-99 without a valid Inspection Certificate issued by the Department.

The Department shall issue one Inspection Certificate for each nuclear power system at a nuclear facility. Unless suspended by the Department, the Inspection Certificate shall remain valid through the 6-month period following the end of the inservice inspection period for which such certificate was issued, or as otherwise permitted by this Part. Operation of such nuclear power systems--beyond--this--one year--grace--period--without--a--valid--inspection--certificate--shall--constitute noncompliance with this Part.

b) Owners of nuclear power systems not yet in operation on February--77-99, shall, prior to operation of the such nuclear power systems, have a valid Inspection Certificate issued by the Department for the such nuclear power systems. The Department shall issue the initial Inspection Certificate for the first inservice inspection period based on a Department determination that the submittal requirements of Section 505.1100 of this Part are met.

c) The Department shall issue one inspection--certificate--for-each-nuclear--power--system--at--a--nuclear--facility--unless--suspended--by--the--Department--the--initial--inspection--certificate--shall--remain--valid--through--the--six--month--period--following--the--end--of--the--inservice--inspection--period--for--this--Part--for--which--such--certificate--was--issued--or--as--otherwise--permitted--by--this--Part--.

d) For nuclear power systems already-in-operation-on--February--77-99--the--Department--shall--issue--the--initial--inspection--certificate--for--the--remainder--of--the--inservice--inspection--period--in--effect--on--February--77-99--based--on--determination--by--the--Department--that--the--submitted--requirements--of--Section--505.1100--and--this--Section--are--met--.

e) For nuclear power systems not yet in operation on February--77-99--the--Department--shall--issue--the--initial--inspection--certificate--for--the--first--inservice--inspection--period--based--on--a--determination--that--the--submitted--requirements--of--Section--505.1100--are--met--.

f) An Inspection Certificate shall be issued for each nuclear power system at the nuclear facility for the succeeding inservice inspection period when the Department determines that:

- 1) The examinations and tests required by the Inservice Inspection Plan during the preceding inservice inspection period were completed; and

2) All related submittal requirements of this Part are met.

AGENCY NOTE: In order to determine whether the examinations and tests required by the Inservice Inspection Plan during the preceding inspection period were performed and completed, the Department will review the submittals required by this Section against the Inservice Inspection Plan and the applicable edition and addenda of the ASME Code Section XI. The above review and determination will be made

separately for each nuclear power system. During this review the Department shall accept requests for relief from ASME Code Section XI requirements that have been approved by the NRC.

dg) The inservice inspection interval for the nuclear power system may be extended or reduced as permitted by the applicable Code edition and addenda or that has been approved by the NRC. The owner shall notify the Department in writing of any such change in the inservice inspection interval. The Department may issue a new Inspection Certificate, or may adjust the term of the Inspection Certificate in effect for the applicable inservice inspection period.

eh) When the owner discovers that an ISI boiler or pressure vessel is not in compliance with this Part, the owner shall take measures to bring the ISI boiler or pressure vessel into compliance. Such measures may include, but are not limited to, repair or replacement of the ISI boiler or pressure vessel in accordance with Section 505.1500 of this Part. In such cases, the owner shall notify the Department in accordance with Section 505.140 of this Part. The owner shall submit information concerning the details of the noncompliance and the measures taken to bring the noncomplying ISI boiler or pressure vessel into compliance to the Department within 90 days following the completion of such corrective measures. Any replacement ISI boiler or pressure vessel shall meet the requirements of this Part for new boilers and pressure vessels and shall be registered by the owner with the Department in accordance with Section 505.1100 of this Part. The Department shall review the information submitted regarding the noncompliance and the corrective measures taken and may issue a revised Inspection Certificate to reflect any change in nuclear power system composition.

fi) The owner shall submit the following:

- 1) In addition to the information submitted under Section 505.1100 of this Part, the owner shall submit the--following to the Department within 90 days after completing an inservice inspection:
 - A) The inservice inspection summary report required by ASME Code Section XI;
 - B) The Owner's Data Report, form NIS-1, required by ASME Code Section XI;
 - C) The Owner's Report for Repairs or Replacements, form NIS-2 of Section XI, if required by the applicable Code Edition and Addenda or Code Case used, for all repairs and replacements performed since the last inservice inspection; and
 - D) Deviations from the Inservice Inspection Plan implemented during inservice inspections that impact upon compliance with this Part.
- 2) The owner shall submit the Inservice Inspection Plan for the next inservice inspection interval to the Department prior to the end of each inservice inspection interval.

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g(j) The Department shall take action under Section 505.80 of this Part if the Department finds that:

- 1) The submittals in subsection (f) of this Section (f)-above have not been made or are incomplete; or
- 2) The examinations and tests required by the owner's Inservice Inspection Plan have not been performed or are incomplete; or
- 3) The owner has not met the requirements of subsection (e) of this Section (f)-above; or
- 4) The nuclear power system is not being inspected in accordance with this Part;

~~the Department shall take action under Section 505.80:~~

h(k) In addition to the above requirements of this Section, owners shall meet the requirements of Section 505.120 of this Part.

(Source: Amended at 23 Ill. Reg. 13 0 8 9, effective 07/06/1999)

Section 505.1300 Operation Requirements

ISI boilers and pressure vessels shall meet the requirements of Section 505.130 of this Part.

(Source: Amended at 23 Ill. Reg. 13 0 8 9, effective 07/06/1999)

Section 505.1400 Inspection Requirements

ISI boilers and pressure vessels shall meet the requirements of Section 505.140 of this Part.

(Source: Amended at 23 Ill. Reg. 13 0 8 9, effective 07/06/1999)

Section 505.1500 Repairs

Repairs of ISI boilers and pressure vessels and pressure relief valves associated with ISI boilers and pressure vessels, except boilers and pressure vessels and those pressure relief valves associated with boilers and pressure vessels that are exempt under Section 505.5(a) of this Part, shall be made in accordance with this Section.

- a) ISI boilers and pressure vessels shall be repaired in accordance with the applicable repair and replacement requirements of Section XI of the ASME Code or other codes and standards as reflected in the facility's Operating License, Inail Safety Analysis Report, technical specifications or other licensing documents as required or approved by the NRC.
- b) Pressure relief valves associated with ISI boilers and pressure vessels shall be repaired in accordance with the applicable repair and

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replacement requirements of Section XI of the ASME Code or other codes and standards as reflected in the facility's Operating License, Final Safety Analysis Report, technical specifications or other licensing documents as required or approved by the NRC.

(Source: Amended at 23 Ill. Reg. 13 0 8 9, effective 07/06/1999)

Section 505.1600 Code Case Applications

- a) Approval to use an ASME Code Case for ISI boilers and pressure vessels is vested in the NRC. The Department shall accept all ASME Code Cases approved for use by the NRC.
- b) Owners shall meet the notification requirements of Section 505.160 of this Part in all cases involving the use of Code Cases for ISI boilers or pressure vessels.

(Source: Amended at 23 Ill. Reg. 13 0 8 9, effective 07/06/1999)

Section 505.1800 Authorized Inspectors

In order to perform the duties of an authorized Inspector for ISI boilers and pressure vessels or nuclear power systems at nuclear facilities within the State, the individual shall ~~must~~, in addition to the requirements of Section 505.180 of this Part, hold a current endorsement with either a nuclear ("N" or "S") or an inservice ("I" or "ISI") designation, as appropriate, issued by the National Board. Specific endorsement and corresponding titles are as follows:

- a) Authorized Nuclear Inspector ("N" Endorsement);
- b) Authorized Nuclear Inspector Supervisor ("S" Endorsement);
- c) Authorized Nuclear Inservice Inspector ("I" Endorsement); or
- d) Authorized Nuclear Inservice Inspector Supervisor ("ISI" Endorsement).

(Source: Amended at 23 Ill. Reg. 13 0 8 9, effective 07/06/1999)

Section 505.1900 Authorized Inspection Agencies

- a) Organizations seeking to provide inspection services to the requirements of ASME Code Section III, Section XI or both, shall be subject to the requirements of this Section and Section 505.190 of this Part.
- b) The request for recognition submitted in Section 505.190(a) of this Part (b) shall also contain documentation demonstrating that the organization meets the ASME Code and ASME/ANSI NG26 or ASME QAI-1 qualifications for Authorized Inspection Agencies for the scope of inspection activities, including the possession of a valid ASME Certificate of Accreditation.

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c) The Department shall act in accordance with Section 505.190(b) of this Part ~~for~~ on all requests for recognition submitted in accordance with this Part.

(Source: Amended at 23 Ill. Reg. 13 0 8 9, effective 01/06/1999.)

SUPPART C: NON-ISTI BOILERS AND PRESSURE VESSELS

Section 505.2000 Standards for Design, Construction, Operation and Inspection

Non-ISTI boilers and pressure vessels, including related appurtenances, except those exempt under Section 505.50(a) of this Part, operated within or upon or in connection with a nuclear facility in Illinois, shall be designed, constructed, installed, examined, tested, repaired, altered and inspected as required by this Section, in those cases where NRC has jurisdiction, as determined by NRC. Where NRC has jurisdiction, the codes and standards reflected in the Facility's Operating License, Final Safety Analysis Report, technical specifications or other licensing documents as required or approved by the NRC shall apply. For non-ISTI boilers and pressure vessels over which NRC has no jurisdiction, as determined by NRC, the standards required by this Part apply. If the NRC determines that NRC has jurisdiction, but has not established standards, the Department may propose to NRC that these or other standards be applied to such boilers and pressure vessels in nuclear power plants in Illinois.

a) All new, existing and reinstated non-ISTI boilers, including related appurtenances, shall be designed, constructed, installed, examined, tested, repaired and altered in accordance with the ASME Code or National Board Inspection Code, as applicable, and inspected in accordance with this Part. Where a non-ISTI boiler is moved and reinstated, the fittings and appliances of that boiler shall comply with this Part.

b) All non-ISTI pressure vessels installed and placed in operation after December 31, 1976 and all reinstated non-ISTI pressure vessels, including related appurtenances, shall be designed, constructed, installed, tested, examined, repaired and altered in accordance with the ASME Code or National Board Inspection Code, as applicable, and inspected in accordance with this Part. Where a non-ISTI pressure vessel is moved and reinstated, the fittings and appliances of that pressure vessel shall comply with this Part.

c) Non-ISTI pressure vessels and related appurtenances installed and placed in operation at nuclear facilities on or before December 31, 1976 shall be inspected in accordance with this Part and designed, constructed, installed, tested, repaired and altered, in accordance with the following requirements:

- 1) The MAWP for standard pressure vessels shall be determined in accordance with the applicable provisions of the ASME Code under which they were constructed and stamped.

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2) MAWP for Non-standard Pressure Vessels

- A) The MAWP of a non-standard pressure vessel subject to internal pressure shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the course and the factor of safety set by this Part, as permitted below.

$$(T^2 * E) / (R^2 F_S) = MAWP, \text{ in psig, where:}$$

T = ultimate tensile strength of shell plate, in psi.

When the tensile strength of steel plate is not known, it shall be taken as 55,000 psi for temperature not exceeding 650° F.

t = minimum thickness of shell plate of weakest course, in inches.

E = efficiency of longitudinal joint, depending upon construction. Use the following values (in percents):

For Fusion-Welded and Brazed Joints:

Single lap welded.....40

Double lap welded.....60

Single butt welded.....60

Double butt welded.....60

Forge welded.....75

Brazed steel.....80

For riveted joints — calculate riveted joint efficiency in accordance with rules given in Section I, Part PR, of the 1971 ASME Code.

R = inside radius for weakest shell course, in inches, provided the thickness does not exceed 10 percent of the radius. If the thickness is over 10 percent of the radius, the outer radius shall be used.

The MAWP for cylindrical non-standard pressure vessels subject to external or collapsing pressure shall be determined by the rules in Par. 06-77 and 06-28 of the ASME Code Section VIII.

The minimum factor of safety permitted shall be a minimum of 5.0, necessary by the Inspector to assure the operation of the vessel within safe limits. The condition of the vessel, and the particular service to which it is subject will be determining factors.

The MAWP permitted for formed heads under pressure shall be determined by using the appropriate formulas from UG-32 or UG-33 of the ASME Code Section VIII and the tensile strength and efficiencies given in this Section above.

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d) All non-ISI boilers and pressure vessels shall be inspected in accordance with Part BB ~~Chapter~~-~~if~~ of the National Board Inspection Code and this subsection (d). The following general requirements shall apply to all non-ISI boilers and pressure vessels:

- 1) The owner shall prepare each boiler and pressure vessel for internal inspection in accordance with Part BB ~~Chapter~~-~~if~~ of the National Board Inspection Code. The Authorized Inspector should not enter any boiler or pressure vessel before he is satisfied that all necessary safety precautions from Part BB ~~Chapter~~-~~if~~ of the National Board Inspection Code have been taken, including testing the boiler or pressure vessel atmosphere for oxygen and toxic, flammable and inert gases;
- 2) The owner shall prepare for and apply the hydrostatic test, whenever necessary, on a date agreeable to the owner and the Authorized Inspector.

e) All cases not specifically covered by this Part shall be treated as new installations. Existing non-ISI boilers and pressure vessels shall be governed by current ASME Code and National Board Inspection Code requirements or the requirements of the ASME Code in effect at the time of construction.

(Source: Amended at 23 Ill. Reg. 13089, effective _____)

Section 505.2100 Registration Requirements

For registration of each non-ISI boiler or pressure vessel, except those exempt under Section 505.50(a) of this Part, the owner shall submit the following to the Department. If the submitted applies to a collection of non-ISI boilers and pressure vessels, the owner shall submit the documentation once for the non-ISI boilers and pressure vessels included in the submittal.

a) ~~for each non-ISI boiler and pressure vessel—already registered—with the Office of the State Fire Marshal on February 7-1994—the owner shall submit the information required by Section 505.11(b).~~

b) For each non-ISI boiler and pressure vessel not already registered with the Department ~~after~~-February 7-1994, the owner shall submit any manufacturer's data reports related to the construction, repair and replacement or alteration of the non-ISI boiler or pressure vessel and its appurtenances.

c) For boilers and pressure vessels covered by this Section, owners shall meet the requirements of Section 505.110 of this Part.

AGENCY NOTE: Data Reports as used in subsection (a) of this section and (b) above refers to those documents completed as required by the construction or inspection code applicable to the non-ISI boiler or pressure vessel.

(Source: Amended at 23 Ill. Reg. 13089, effective _____)

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Section 505.2200 Inspection Certificates

This Section is not intended to be, in any way, inconsistent with the applicable regulations, rules and requirements of the NRC. If a requirement of this Section as applied in any situation is or would be inconsistent with the regulations, rules and requirements of the NRC, the requirements of this Section shall not be applied. The Department will take action in regard to Inspection Certificate only in accordance with Section 505.80 of this Part. The Department shall issue Inspection Certificates for non-ISI boilers and pressure vessels in accordance with this Section if the reports, inspection criteria and plans required to be submitted by and identified in Sections 505.110 and 505.2100 of this Part and this Section are submitted in accordance with the frequencies specified therein and are in compliance with this Part.

a) The Department shall issue one Inspection Certificate to each non-ISI boiler and pressure vessel for a term equal to the frequency of inspection of the non-ISI boiler or pressure vessel. The frequency and type of inspection for each non-ISI boiler and pressure vessel shall be as follows:

- 1) Power boilers, high pressure water boilers and high temperature water boilers shall be inspected annually, which shall be an internal inspection where conditions permit. Such boilers shall also be inspected externally annually while under representative operating conditions, if possible.
- 2) Low pressure steam boilers, hot water heating boilers and hot water supply boilers shall be inspected every 2 years. Such inspection shall be internal and external, where conditions permit.
- 3) Pressure vessels subject to internal corrosion shall be inspected in accordance with subsection (a)(3)(A) of this Section, unless the Department approves an alternative under subsection (a)(3)(B) of this Section. ~~every three years—such inspection shall be external and internal where conditions permit.~~

A) Pressure vessels shall be inspected every 3 years. Such inspection shall be internal and external where conditions permit.

B) Alternatively, for each pressure vessel that can be inspected only during refueling outages, the owner may develop an inspection plan for the remaining life of the pressure vessel. The plan shall provide that an inspection of each pressure vessel will occur prior to the completion of every 2 consecutive refueling outages but in no case more than after the last inspection of the pressure vessel. The owner may include in the plan contingency options for conducting inspections during unplanned or extended refueling outages, provided the required frequency of inspection is met. The bases for the inspection plan may

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include, but is not necessarily limited to, alternative examinations and tests planned and performed, past performance of this and similar pressure vessels, status of the pressure vessel in the plant's maintenance program, the environment and contents of the pressure vessel, vessel use/service condition (operating or not) of the pressure vessel, where the pressure vessel is installed, risks, methods of inspection, AlARA (as defined in 32 Ill. Adm. Code 210), considerations, trade-offs and relevant engineering data. This plan shall be submitted to the Department for approval.

4) Pressure vessels not subject to internal corrosion shall be inspected in accordance with subsection (a)(4)(A) or (B) of this section as applicable, unless the Department approves an alternative under subsection (a)(4)(C) of this Section as follows:

A) Vessels containing incompressible fluids (e.g., water) shall be inspected externally every 5 five years.
 B) Vessels containing compressible fluids (e.g., air, steam), or a combination of compressible and incompressible fluids, shall be inspected externally every 3 three years.
 C) Alternatively, the owner may develop a plan for inspection of the vessel for its remaining life based upon refueling outages. This plan shall be submitted to the Department for approval. The basis for such an inspection plan may include alternative examinations and tests planned and performed, past performance of the pressure vessel and similar pressure vessels, status of the pressure vessel in the plant's maintenance program, the environment and contents of the pressure vessel and relevant engineering data.

AGENCY NOTE: External inspection may be waived by the Department due to inaccessibility of the equipment, based on the Owner's detailed assessment of documentation and performance data verifying vessel integrity.

5) Inspection of flame safeguard equipment shall be to the standards of Section 505.40(c) of this Part and will be in conjunction with the regular inspection of boilers.
 6) A grace period of 2 months beyond the period specified in subsection (a)(1) or (2) of this Section, may elapse between internal inspections of the boiler while it is not under pressure and the external inspection of the boiler while it is under pressure.
 b) The Department shall issue an initial inspection Certificate for a non-1SI boiler or pressure vessel in accordance with this subsection
 (b). Owners of a non-1SI boiler or pressure vessel not yet in operation after February 7, 1994, shall prior to operation of the boiler or pressure vessel, have a valid Inspection Certificate issued

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by the Department. Application for an Inspection Certificate shall be in accordance with subsection (f) of this Section except that the owner shall submit the documents listed in subsection (f)(2) of this Section at least 90 days prior to operating the boiler or pressure vessel, as follows:

i) For a non-1SI boiler and pressure vessel having a valid Inspection Certificate issued by the State Fire Marshal on or before January 7, 1994—the Department shall automatically recognize such an Inspection Certificate until expiration—or until the Department issues an inspection certificate in accordance with this Part whenever it certifies an application for an inspection certificate shall be in accordance with subsection (f)(1) of this Section.

ii) Owners of a non-1SI boiler or pressure vessel—not yet—in operation—on February 7, 1994—shall prior to operation of such a boiler or pressure vessel have a valid inspection certificate issued by the Department—in accordance with this Part—application for an inspection certificate shall be in accordance with subsection (f)(1) of this Section except that the owner shall submit the documents listed in subsection (f)(2) of this Section at least 90 days prior to operating such a boiler or pressure vessel.

iii) Owners of a non-1SI boiler or pressure vessel—in operation on February 7, 1994—but not having a valid inspection certificate issued by the State Fire Marshal—may not operate such a boiler or pressure vessel after August 6, 1994 without a valid inspection certificate issued by the Department—in accordance—with this Part—Request for an Inspection Certificate shall be in accordance with subsection (ff)—of this Section except that:

A) The owner shall submit the documents listed in subsection (f)(1) of this Section no later than 30 days prior to the end of the 180 day period

B) The document submitted in subsection (f)(1) of this Section shall be those documents required completed within the 3 year period prior to February 7, 1994—the owner shall submit such documents on or before May 01, 1994.

c) For other than initial issuance of an Inspection Certificate in accordance with subsection (b) of this Section, the Department shall issue an Inspection Certificate for each non-1SI boiler or pressure vessel at the nuclear facility in accordance with this Section when the Department determines that:

1) The inspections required under subsection (a) of this Section were applied to the non-1SI boiler or pressure vessel were completed and the condition of the non-1SI boiler or pressure vessel is such that an Inspection Certificate may be issued in accordance with subsection (d) of this Section;

2) The Report of Inspection or similar report form was completed for the non-1SI boiler or pressure vessel and was submitted to the

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Department in accordance with subsection (f)(2) of this Section; and if applicable, all At submittals in subsections (e) and (f)(2)(B) of this Section are met.

d) The Department shall issue the Inspection Certificate within 90 days following receipt of the Report of Inspection on the non-ISI boiler or pressure vessel, or shall observe the procedures of subsection (g) of this Section. The latter shall occur either within 90 days following receipt of the Report of Inspection or within 10 days following the expiration date of the Inspection Certificate.

e) The Inspection Certificate issued for the non-ISI boiler or pressure vessel as established by this Section may be extended for a maximum of one year.

1) For all pressure vessels and for boilers, other than power boilers, high pressure water boilers and γ high temperature water boilers and ~~for pressure vessels~~, the owner shall request permission from the Department to extend the term of the Inspection Certificate prior to implementing the extension. The Department shall review a request for extension and permit such extension where the extension does not increase the risk to the health and safety of the public and personnel.

2) For power boilers, high pressure water boilers and high temperature water boilers, the Department may extend, for a time not exceeding 1 year, the time within which the power boiler is required to be internally inspected, subject to the following conditions and qualifications:

A) The analysis and treatment of feedwater for such power boilers shall be under the supervision of a person qualified in the field of water chemistry.

B) The analysis and treatment of the boiler feedwater shall be for the purpose of controlling and limiting serious deterioration, crusting and sludge that affect the safety of the boiler.

C) The owner of such boilers shall maintain, for examination by the Inspector, accurate records of such chemical and physical laboratory analysis of samples of the boiler water taken at regular intervals of not more than 24 hours operation and of the treatment applied. These records shall specify dates and times of analyses, by whom analyzed, and the treatment applied at that time and shall be certified by the responsible authority. These records will adequately show the conditions of such water and any constituents or characteristics which are capable of producing corrosion or other deterioration of the boiler or its parts.

D) Application for extension shall be in writing setting forth facts establishing compliance with the foregoing conditions and qualifications and shall be accompanied by the report of external inspection.

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f) Notwithstanding any other provision of this Section, an Inspection Certificate shall remain valid beyond the expiration date noted on the certificate until the boiler or pressure vessel is re-inspected by the Authorized Inspector or until the certificate is suspended by the Department, provided that the owner of the boiler or pressure vessel makes it available for inspection at reasonable times.

1) The information required by Section 505.210 of this Part;

2) On or before the expiration date of the Inspection Certificate issued to the non-ISI boiler or pressure vessel:

A) The completed Report of Inspection or similar report form documenting that the inspections were performed in accordance with the inspection criteria and frequency requirements of subsection (a) of this Section and Section 505.200 505.220 of this Part;

B) All code data reports and all other information relating to the repair, replacement or alteration of the non-ISI boiler or pressure vessel or its appurtenances performed since the last Certificate Inspection.

g) The Department shall take action under Section 505.80 of this Part if:

if the Department finds that:

1) The submittals and notifications required by subsections (e) and (f) of this Section have not been made or are incomplete; or

2) The inspections required by this Section have not been performed or are incomplete; or

3) A change to the inspection frequency applied to the non-ISI boiler or pressure vessel is not in accordance with subsection (e) of this Section; or

4) The non-ISI boiler or pressure vessel was insured and the insurance has been canceled or has otherwise become ineffective;⁷

the Department shall take action under Section 505.80 of this Part;

h) In addition to the above requirements of this Section, owners shall meet the requirements of Section 505.120 of this Part.

i) Notwithstanding any other provision of this Section, an Inspection Certificate shall remain valid beyond the expiration date noted on the certificate until the boiler or pressure vessel is re-inspected by the Authorized Inspector or until the certificate is suspended by the Department, provided that the owner of the boiler or pressure vessel makes it available for inspection at reasonable times.

(Source: Amended at 23 Ill. Reg. 13089, effective 10/06/1999)

Section 505.2300 Operation Requirements
Non-ISI boilers and pressure vessels shall meet the requirements of Section 505.130 of this Part.

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(Source: Amended at 23 Ill. Reg. 13 08 9, effective
01/06/1999)

Section 505.2400 Inspection Requirements

- a) If, upon an external inspection, there is evidence of a leak or crack, enough of the covering of the non-ISM boiler or pressure vessel shall be removed so that the Authorized Inspector may determine the condition of the non-ISM boiler or pressure vessel. If removing the covering could create a situation which could affect the operability or safety of the vessel, the limitations of Section 505.20(c) of this Part shall apply.
- b) Owners shall permanently maintain inspection data and supporting documents throughout the lifetime of the equipment.
- c) In addition to the above requirements of this Section, owners shall meet the requirements of Section 505.140 of this Part.

(Source: Amended at 23 Ill. Reg. 13 08 9, effective
01/06/1999)

Section 505.2500 Repairs and Alterations

Repairs and alterations of non-ISM boilers and pressure vessels, and pressure relief valves associated with non-ISM boilers and pressure vessels, except with boilers and pressure vessels and those pressure relief valves associated with boilers and pressure vessels that are exempt under Section 505.50(a) of this Part, shall be made in accordance with this Section. Non-ISM boilers and pressure vessels, and pressure relief valves associated with non-ISM boilers and pressure vessels, that are repaired or altered after February 7, 1994 shall be repaired or altered in accordance with this Section or other codes and standards as reflected in the facility's Operating License, Final Safety Analysis Report, technical specifications or other licensing documents as required or approved by the NRC. The requirements of this Section are subject to the limitations of Section 505.20(c) of this Part.

- a) The requirements of this subsection (a) are limited to welded repairs and welded and non-welded alterations of non-ISM boilers and pressure vessels. Where requirements for a repair or alteration are not given, it is intended that, subject to approval of the Authorized Inspector, details of design and construction, insofar as practical, will be consistent with the ASME Code for boilers and pressure vessels constructed to the ASME Code, or the code to which the item was originally constructed for boilers and pressure vessels, not constructed to the ASME Code or the repair rules of the National Board Inspection Code.
- 1) All non-ISM boilers and pressure vessels covered by the Act that are repaired after February 7, 1994 shall be repaired by one of the following organizations:
 - A) An owner and those organizations under contract to the

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owner, provided that:

- i) such repairs are made in accordance with a Quality Assurance Program that meets the requirements of 10 CFR 50 Appendix B and has been approved by the NRC;
- ii) all portions of the owner's 10 CFR 50 Appendix B Quality Assurance Program, described in subsection (a)(1)(A)(ii) of this Section **above**, that are applicable to a repair activity are applied to the repair; and
- iii) the owner notifies the Department of his intention to apply 10 CFR 50 Appendix B Quality Assurance Program, described in subsection (a)(1)(A)(i) of this Section **above**, to the repair of boilers and pressure vessels. This notification only needs to be given once for all repairs of boilers and pressure vessels performed under the owner's 10 CFR 50 Appendix B Quality Assurance Program at the nuclear facility.

AGENCY NOTE: The application of the owner's 10 CFR 50 Appendix B Quality Assurance Program, described in subsections (a)(1)(A)(i), (ii), and (iii) of this Section **above**, is subject to review by the Authorized Inspector.

- B) An organization in possession of a valid "IR" certificate of Authorization issued by the National Board.
- C) An organization authorized by the Division of Boiler and Pressure Vessel Safety, Office of the State Fire Marshal, to repair boilers and pressure vessels.

2) Repairs shall be initiated only after they have been authorized by the Authorized Inspector who has reviewed and accepted the weld procedures, welders and welding operators' qualifications and repair methods. The Authorized Inspector may give prior approval for repairs of a routine nature. In every case the Authorized Inspector shall be advised of each repair under prior agreement.

3) All non-ISM boilers and pressure vessels covered by the Act that are altered after February 7, 1994 shall be altered by one of the following organizations:

- A) An owner and those organizations under contract to the owner, provided that:
 - i) such alterations are made in accordance with a Quality Assurance Program that meets the requirements of 10 CFR 50 Appendix B and has been approved by the NRC;
 - ii) all portions of the owner's 10 CFR 50 Appendix B Quality Assurance Program, described in subsection (a)(1)(A)(ii) of this Section **above**, that are applicable to an alteration activity are applied to the alteration; and
 - iii) the owner notifies the Department of his intention to apply 10 CFR 50 Appendix B Quality Assurance Program,

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described in subsection (a)(3)(A)(ii) of this Section above, to the alteration of boilers and pressure vessels. This organization only needs to be given once for all alterations repairs of boilers and pressure vessels performed under the owner's 10 CFR 50 Appendix B Quality Assurance Program at the nuclear facility.

AGENCY NOTE: The application of the owner's 10 CFR 50 Appendix B Quality Assurance Program, described in subsections (a)(3)(A)(ii), (iii) and (iv) of this Section above, is subject to review by the Authorized Inspector.

B) An organization in possession of a valid "R" Certificate of Authorization issued by the National Board, provided the alterations are within the scope of such authorization.

4) Alterations shall be initiated only after they have been authorized by the Authorized Inspector who has reviewed and accepted the alteration methods and calculations. If considered necessary, the Authorized Inspector shall make an inspection of the object before granting such authorization.

5) Reports documenting repairs and alterations shall be sent to the Department in addition to the distribution required by the National Board Inspection Code.

6) Documentation of repairs and alterations shall be in accordance with Section-R-402 of the National Board Inspection Code, except that, in lieu of a form R-1, an alternative form containing equivalent information may be used. All alternative forms shall be signed by the Authorized Inspector. All alternative forms shall be approved by the Department prior to use. The Authorized Inspector shall determine whether the completion of the Form R-1 or alternative form is required for routine repairs.

B) Documentation--of--alterations--shall--be--in--accordance--with--Section--R--502--of--the--National--Board--Inspection--Code--except--that--in--lieu--of--a--form--R--1--an--alternative--form--containing--equivalent--information--may--be--used--All--alterative--forms--shall--be--signed--by--the--Authorized--Inspector--All--alterative--forms--shall--be--approved--by--the--Department--prior--to--use--The--Authorized--Inspector--shall--determine--whether--the--completion--of--the--Form--R--1--or--alternative--form--is--required--for--routine--repairs.

B) Documentation--of--alterations--shall--be--in--accordance--with--Section--R--502--of--the--National--Board--Inspection--Code--except--that--in--lieu--of--a--form--R--1--an--alternative--form--containing--equivalent--information--may--be--used--All--alterative--forms--shall--be--signed--by--the--Authorized--Inspector--All--alterative--forms--shall--be--approved--by--the--Department--prior--to--use--The--Authorized--Inspector--shall--determine--whether--the--completion--of--the--Form--R--1--or--alternative--form--is--required--for--routine--repairs.

76) Repairs and alterations shall be accepted by either an Authorized Inspector employed by the Authorized Inspection Agency responsible for the boiler or pressure vessel or by an Authorized Inspector employed by the Authorized Inspection Agency of record for the organization making the repair or alteration. It shall be the responsibility of the organization making the repair or alteration to coordinate the acceptance inspection of the repair or alteration.

8) References to Sections-R-404--and--R-505--in--Section--R-307--of--the National Board Inspection Code shall apply--except--that--the boiler or pressure vessel shall be pressure tested for

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National--Board--Inspection--Code--shall--be--referred--as--Sections 505-506(f)(1) and 505-506(f)(3).

9) Pressure Testing
A) The Authorized Inspector may require a pressure test after completing a repair to a boiler or pressure vessel when in the Authorized Inspector's judgment one should be conducted.

B) A pressure test in accordance with the National Board Inspection Code shall be applied to the boiler or pressure vessel on the completion of an alteration.
vessel on the completion of an alteration.

10) For repair methods, the rules of Parts RC and RD Section-R-402 of the National Board Inspection Code shall apply.

11) Alteration methods shall comply with the general requirements of this subsection (a), and with the appropriate ASME Code Section or Part RC of the National Board Inspection Code, as applicable, including any service restrictions.

12) Major replacement of pressure parts, including drums and shells, which are fabricated by welding and for which a Manufacturers Data Report is required by the applicable ASME Code Section shall be fabricated by a manufacturer having an ASME Certificate of Authorization and the appropriate ASME Code Symbol. The item shall be inspected, stamped with the applicable ASME Code Symbol and the word "PAST", and reported on the appropriate Manufacturers Partial Data Report.

13) When a repair or alteration requires removal of that part of a non-PSI boiler or pressure vessel containing the code stamping, the Authorized Inspector shall, subject to the approval of the Department, witness the making of a facsimile of the stamping, the obliteration of the old stamping and the transfer of the stamping to the new part. When the stamping is on a nameplate, the Authorized Inspector is to witness the transfer of the nameplate to the new part. The ASME Code Symbol is not to be remastered. For re-rating, the rules of this subsection (a) and Part RC-3000 Section-R-503 of the National Board Inspection Code shall apply except--that--is--subject--to--acceptance--shall--be--referred--for--review--and--approval. Additionally, the following shall apply:

A) All requirements in Parts RC-3020, RC-3021, RC-3022 and RC-3030 Section-R-503 of the National Board Inspection Code and this subsection (a) shall be met to the satisfaction of the Authorized Inspection Agency at the location of the installation.

B) Revised calculations verifying the new service conditions shall be required from the original manufacturer; or, when such calculations cannot be obtained from this source, they may be prepared by an Engineer in accordance with Part RC-3022(a). Section-R-503 of the National Board Inspection Code.

C) The boiler or pressure vessel shall be pressure tested for

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the rated condition as required by subsection (a)(9)(B) of this Section ~~testify above~~.

b) All ASME Code Section I "V" stamped, Section III "NV" stamped, and Section VIII "UV" stamped pressure relief valves associated with non-*ISI* boilers and pressure vessels shall be repaired in accordance with this subsection (b).

1) All pressure relief valves covered by this subsection (b) that are repaired after February 7, 1994 shall be repaired by one of the following organizations:

A) An owner and those organizations under contract to the owner, provided that:

- i) such repairs are made in accordance with a Quality Assurance Program that meets the requirements of 10 CFR 50 Appendix B and has been approved by the NRC;
- ii) all portions of the owner's 10 CFR 50 Appendix B Quality Assurance Program, described in subsection (b)(1)(A)(i) of this Section ~~above~~, that are applicable to a repair activity are applied to the repair; and
- iii) the owner notifies the Department of his intent to apply 10 CFR 50 Appendix B Quality Assurance Program, described in subsection (b)(1)(A)(i) of this Section ~~above~~, to the repair of these pressure relief valves.

This notification only needs to be given once for all repairs of pressure relief valves ~~boilers-and-pressure vessels~~ performed under the owner's 10 CFR 50 Appendix B Quality Assurance Program at the nuclear facility.

AGENCY NOTE: The application of the owner's 10 CFR 50 Appendix B Quality Assurance Program, described in subsections (b)(1)(A)(i), (ii), and (iii) of this Section ~~above~~, is subject to review by the Authorized Inspector.

B) The manufacturer of the valve who is in possession of a valid ASME "V", "NV" or "UV" Certificate of Authorization, provided repairs are within the scope of the organization's Certificate of Authorization and are performed under the organization's Quality Control System, as applicable.

C) An organization in possession of a valid "VR" Certificate of Authorization issued by the National Board, provided repairs are within the scope of the organization's Certificate of Authorization and are performed under the organization's Quality Control System.

D) An organization in possession of a valid Certificate of Authorization issued by the Division of Boiler and Pressure Vessel Safety, Office of the State Fire Marshal, to repair pressure relief valves provided repairs are within the scope of the organization's Certificate of Authorization and

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performed under the organization's accepted Quality Control System.

2) Repair of a pressure relief valve is considered to be the replacement or machining of any critical part, lapping of seat and disc or any other operation which may affect the flow passages, capacity, function or pressure retaining integrity. Disassembly and reassembly or adjustments which affect the pressure relief valve function are not considered a repair, but a test confirming the valve's set pressure shall be performed. The initial installation, testing and adjustments of a new pressure relief valve on a non-*ISI* boiler or pressure vessel are not considered a repair.

3) Nameplates

E-VR--exception--National--Board--Inspection--Code--Appendix E-VR--Section 9--shall-be--as--follows: Individuals authorized by the Division of Boiler and Pressure Vessel Safety, Office of the State Fire Marshal, who are properly trained and qualified employees of the owner may make adjustments to the set pressure provided the adjusted settings and the date of the adjustment are recorded on a metal tag secured to the seal wire. All external adjustments shall be rescaled showing the identification of the organization making the adjustments.

C) For owners that act as the valve repair organization under the provisions of subsection (b)(1)(A) of this Section ~~above~~ who are not in possession of a valid "VR" Certificate of Authorization issued by the National Board, the requirements for stamping the ASME Code "V", "UV", "NV" or National Board "VR" mark in Parts RA-2262, RA-2264, RA-2265 and Appendix 2 Section -9-9 of the National Board Inspection Code **E-VR** shall not apply. All other requirements shall be met.

E-VR shall not apply.

4) Performance Testing

A) The rules of Part RA-2280 Appendix E-VR-Section 9-9 of the National Board Inspection Code shall apply, regardless of whether the "VR" stamp will be or has been applied. The exceptions and clarifications of this subsection **(b)(14)** shall also apply.

B) For owners that act as the valve repair organization under the provisions of subsection (b)(1)(A) of this Section ~~above~~ who are not in possession of a valid "VR" Certificate of Authorization issued by the National Board, the requirements for stamping the "VR" mark in Part RA-2280 of the National Board Inspection Code are not required. Also, performance testing equipment qualified by the owner under Part RA-2281

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of the National Board Inspection Code shall be done by the owner. The Authorized Inspector shall witness the qualification of test equipment and review the documentation of such qualification as required in Part RA-2281 of the National Board Inspection Code. The use of re-certified equipment per Section--0-227-thy--of--the--National--Board Inspection--Code--Appendix--E-VR--shall--be--met--in--Section 117-1(B)(2)--of--the--National--Board--Inspection--Code--Appendix E-VR.

5) Organizations that repair pressure relief valves under subsections (b)(1)(B) through (b)(1)(D) of this Section above may perform field repairs in accordance with the following requirements.

- A) Qualified technicians in the employ of the repair organization perform such repairs.
- B) Procedures that address field repairs are contained in the Quality Control System or Quality Assurance System, as applicable, and are maintained.
- C) All functions affecting the quality of the repaired pressure relief valves are controlled from the location for which the appropriate authorization was issued.
- D) Periodic audits of work carried out in the field are made by quality control personnel of the repair organization to ensure that the requirements of the Quality Control System or Quality Assurance System, as applicable, are met. This audit may include witnessing the test of the field repaired pressure relief valve.

(Source: Amended at 23 Ill. Reg. 13 0 8 9, effective 10/06/1999)

Section 505.2800 Authorized Inspectors

In order to perform the duties of an Authorized Inspector for non-ISI boilers or pressure vessels at nuclear facilities within the State, an individual shall meet the requirements of Section 505.180 of this Part.

(Source: Amended at 23 Ill. Reg. 13 0 8 9, effective 10/06/1999)

Section 505.2900 Authorized Inspection Agencies

- a) Authorized Inspection Agencies that are insuring a non-ISI boiler or pressure vessel shall immediately notify the Department when such insurance is canceled, not renewed, suspended or otherwise made ineffective because of unsafe conditions.
- b) Organizations seeking to provide inspection services to the requirements of the National Board Inspection Code or the ASME Code,

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except for Section III and Section XI, shall be subject to the requirements of Section 505.190 of this Part. The request for recognition submitted in Section 505.190(a)(b) of this Part shall also contain documentation demonstrating that the organization meets the ASME Code or the National Board Inspection Code requirements for Authorized Inspection Agencies, if any, for the scope of inspection activities.

Organizations that are providing inspection services at nuclear facilities on February--7-1994 may be reviewed by the Department after--February--7-1995. Such reviews shall be for the purpose of verifying that the organization is in compliance with applicable ASME Code Sections or National Board Inspection Code, as applicable, including qualification and duty requirements for Authorized Inspection Agencies contained therein.

An organization that is recognized by the Department under Section 505.190(b)(c) of this Part as an Authorized Inspection Agency may be reviewed by the Department either prior or subsequent to recognition. Such reviews shall be for the purpose of verifying that the organization is in compliance with applicable ASME Code Sections or National Board Inspection Code, as applicable, including qualification and duty requirements for Authorized Inspection Agencies contained therein.

f) the Department shall give 15 days written notice before any reviews are performed under this Section. Reviews shall be performed at the locations where control of Authorized Inspectors occurs or at the organization's home office.

(Source: Amended at 23 Ill. Reg. 13 0 8 9, effective 10/06/1999)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

1) Heading of the Part: Pay Plan

2) Code Citation: 80 Ill. Adm. Code 310

3) Section Number: Appendix A, Table B
Repealed

4) Reference to the specific State or Federal Court Order, Federal Rule or Statute which requires this Peremptory Rulmaking: Section 1-5(d) of the Illinois Administrative Procedure Act [5 ILCs 100-1-5(d)]

5) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a]
Effective Date: October 1, 1999

6) A Complete Description of the Issues Involved: In Section 310, Appendix A, Table B HR-200 (Department of Labor -- Chicago, Illinois -- SEIU), the Elevator Operator title has not been utilized in the HR-200 Collective Bargaining Unit since 1991 and the Department of Labor has expressed that they have no plans to do so in the future. Therefore, the inclusion of the Elevator Operator is being deleted in Section 310, Appendix A, Table B, effective October 1, 1999.

7) Does this rulemaking contain an automatic repeal date? No

8) Date Filed in Agency's Principal Office: October 1, 1999

9) Is this Rule in compliance with Section 5-50 of the Illinois Administrative Procedure Act? Yes

10) Are there any proposed amendments pending to this part? Yes

11) Statement of Statewide Objectives: This amendment to the Pay Plan pertains only to State employees subject to the Personnel Code and does not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

12) The name, address and telephone number of the person to whom information and questions concerning this peremptory rule shall be directed to:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
217/782-5601

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The full text of the Peremptory Amendment begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PERPETUARY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	Introduction	Director and Assistant
310.205	Pervailing Rate	
310.210	Negotiated Rate	
310.220	Part-Time Daily or Hourly Special Services Rate	
310.230	Hourly Rate	
310.240	Member, Patient and Inmate Rate	
310.250	Trainee Rate	
310.260	Licensed and Contracted Rate	
310.270	Designated Rate	
310.280	Out-of-State or Foreign Service Rate	
310.290	Educator Schedule for RC-063 and HR-010	
310.300	Annual Compensation Ranges for Executive	
310.310	Physician Specialist Rate	
310.320	Executive Director, State Board of Elections	
310.330	Excluded Classes Rate (Repealed)	

SUBPART B: SCHEDULE OF RATES

Section	Introduction	Residential Maintenance Workers, AFSCME)
310.205	Pervailing Rate	RC-042 (Residential Maintenance Workers, AFSCME)
310.210	Negotiated Rate	HR-012 (Fair Employment Practices Employees, SEIU)
310.220	Part-Time Daily or Hourly Special Services Rate	HR-010 (Teachers of Deaf, IFPI)
310.230	Hourly Rate	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.240	Member, Patient and Inmate Rate	CU-500 (Corrections, Meet and Confer Employees, AFSCME)
310.250	Trainee Rate	RC-062 (Technical Employees, AFSCME)

SUBPART C: MERIT COMPENSATION SYSTEM

Section	Introduction	Physical Specialist Rate
310.205	Pervailing Rate	RC-033 (Meat Inspectors, IFPE)
310.210	Negotiated Rate	RC-042 (Residential Maintenance Workers, AFSCME)
310.220	Part-Time Daily or Hourly Special Services Rate	RC-010 (Professional Legal Unit, AFSCME)
310.230	Hourly Rate	RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.240	Member, Patient and Inmate Rate	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, AFPE)
310.250	Trainee Rate	RC-110 (Conservation Police Lodge)
310.260	Licensed and Contracted Rate	TABLE M
310.270	Designated Rate	TABLE N
310.280	Out-of-State or Foreign Service Rate	TABLE O
310.290	Educator Schedule for RC-063 and HR-010	TABLE P
310.300	Annual Compensation Ranges for Executive	TABLE Q
310.310	Physician Specialist Rate	TABLE R
310.320	Executive Director, State Board of Elections	TABLE S
310.330	Excluded Classes Rate (Repealed)	TABLE T

SUBPART D: APPENDIX

APPENDIX A: NEGOTIATED RATES OF PAY

TABLE W

APPENDIX B: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES - STATE OF ILLINOIS

TABLE X

APPENDIX C: DEPARTMENT OF NATURAL RESOURCES, TEAMSTERS

TABLE Y

APPENDIX D: DEPARTMENT OF LABOR - CHICAGO, ILLINOIS - SETIU (REPEALED)

TABLE Z

Section	Jurisdiction	Implementation
310.410	Objectives	310.530
310.420	Responsibilities	310.540
310.430	Procedure for Determining Annual Merit Increases	310.550
310.440	Intermittent Merit Increase	310.560
310.455	Merit Zone (Repealed)	310.570
310.460	Other Pay Increases	310.580
310.470	Adjustment in Pay	310.590
310.480	Decreases in Pay	310.600
310.490	Other Pay Provisions	310.610
310.495	Broad-Band Pay Range Classes	310.620
310.500	Definitions	310.630
310.510	Conversion of Base Salary to Pay Period Units	310.640
310.520	Conversion of Base Salary to Daily or Hourly Equivalents	310.650
310.530	Implementation	310.660
310.540	Annual Merit Increase Guidechart for Fiscal Year 2000	310.670
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)	310.680

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TABLE X (Professional Employees, AFSCME)

TABLE Y (Educators, AFSCME)

TABLE Z (Physicians, AFSCME)

APPENDIX B Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year 2000

APPENDIX C Medical Administrator Rates for Fiscal Year 2000

APPENDIX D Merit Compensation System Salary Schedule for Fiscal Year 2000

APPENDIX E Teaching Salary Schedule (Repealed)

APPENDIX F Physician and Physician Specialist Salary Schedule (Repealed)

APPENDIX G Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2000

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 240, effective February 1, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11229, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 1320, effective July 1, 1984, for a maximum of 150 days; effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 3681, effective March 12, 1985; amended at 9 Ill. Reg. 4163, effective August 13, 1985; emergency amendment at 9 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 11, 1984; emergency amendment at 9 Ill. Reg. 1143, effective January 16, 1985; for a maximum of 150 days; amended at 9 Ill. Reg. 10063, effective July 1, 1985; amended at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8928, effective August 24, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 12050, effective June 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 19132, effective December 9, 1986; amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 10 Ill. Reg. 3363, effective February 3, 1987; emergency amendment at 11 Ill. Reg. 4388, effective February 27, 1987; emergency amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987; for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987; for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 14984, effective July 29, 1987; amended at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment at 11 Ill. Reg. 1719, effective October 19, 1987; emergency amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987; for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 6073, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7783, effective April 15, 1988; for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988; for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988; for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13206, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989 for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 11887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 18221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; peremptory amendment at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990; for a maximum of 150 days; amended at 14 Ill. Reg. 1361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 9, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663.

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NOTICE OF PEREMPTORY AMENDMENT

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effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; effective March 11, 1991; emergency amendment at 15 Ill. Reg. 4401, effective March 20, 1991; emergency amendment at 15 Ill. Reg. 5100, effective March 20, 1991; emergency amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14110, effective December 26, 1991, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 711, effective December 23, 1991; emergency amendment at 16 Ill. Reg. 10841, effective August 5, 1996; for a maximum of 150 days; amended at 16 Ill. Reg. 2050, effective February 20, 1992; emergency amendment at 16 Ill. Reg. 5068, effective March 11, 1992; emergency amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8322, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective June 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; emergency amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 1, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 25215, effective December 15, 1993; amended at 18 Ill. Reg. 422, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective October 21, 1994; emergency amendment at 18 Ill. Reg. 9662, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994; for a maximum of 150 days; emergency amendment at 18 Ill. Reg. 13416, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14117, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; emergency amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; emergency amendment at 19 Ill. Reg. 2481, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 3073, effective March 7, 1995; emergency amendment at 19 Ill. Reg. 3456, effective March 14, 1995; amended at 19 Ill. Reg. 5145, effective May 2, 1995; emergency amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 131979, effective September 19, 1995; emergency amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 1, 1995; emergency amendment at 15 Ill. Reg. 6334, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8557, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9225, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; emergency amendment at 20 Ill. Reg. 13408, effective September 17, 1996; amended at 20 Ill. Reg. 15018, effective September 24, 1996; emergency amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1229, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 11, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 14267, effective October 14, 1997; emergency amendment at 21 Ill. Reg. 14589, effective October 15, 1997; emergency amendment at 21 Ill. Reg. 15030, effective November 10, 1997; emergency amendment at 21 Ill. Reg. 16344, effective December 9, 1997; emergency amendment at 21 Ill. Reg. 16465, effective December 14, 1997; emergency amendment at 21 Ill. Reg. 17167, effective December 9, 1997; emergency amendment at 21 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; emergency amendment at 22 Ill. Reg. 4336, effective February 13, 1998; emergency amendment at 22 Ill. Reg. 5108, effective February 26, 1998; emergency amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 15, 1998; emergency amendment at 22 Ill. Reg. 7053, effective April 1, 1998; emergency amendment at 22 Ill. Reg. 7320, effective April 10, 1998; emergency amendment at 22 Ill. Reg. 7922, effective April 20, 1998; for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12607, effective July 1, 1998; for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 16158, effective September 30, 1998; emergency amendment at 22 Ill. Reg. 19105, effective September 30, 1998; emergency amendment at 22 Ill. Reg. 19843, effective October 27, 1998; emergency amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective January 1, 1999; emergency amendment at 23 Ill. Reg. 664, effective January 29, 1999; emergency amendment at 23 Ill. Reg. 730, effective December 29, 1998; for a maximum of 150 days; amended at 23 Ill. Reg. 6533, effective May 10, 1999; emergency amendment at 23 Ill. Reg. 7085, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999; for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; emergency amendment at 23 Ill. Reg. 12433, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; emergency amendment at 23 Ill. Reg. 1313 3 2, effective October 1, 1999.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF PEREMPTORY AMENDMENT

Section 310 APPENDIX A Negotiated Rates of Pay

**Section 310. TABLE B HR-200 (Department of Labor - Chicago, Illinois - SEIU)
(Repeated)**

	Operator Mr. Hr.	Ass't-Starter Mr. Hr.	Starter Mr. Hr.	Prior-to Employees-hired 07-01-97	2000-00 12-00	2122-00 32-20	2140-20 32-30	Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
3-or-more-years of-employment	2150-64 12-36	2105-44 11-36	2011-44 11-36	07-01-98	1740-00 10-00	1774-00 10-20	1792-20 10-30	11/18/99	Department of Public Aid, Long Term Care Reimbursement Changes (89 Ill Adm Code 153)	7/16/99 23 Ill Reg 7843	10/19/99
2nd-year-of employment	1976-64 10-36	1937-44 10-36	1902-64 10-36	07-01-98	1740-00 10-00	1774-00 10-20	1792-20 10-30	11/18/99	Department of Public Aid, Long Term Care Reimbursement Changes (89 Ill Adm Code 153)	7/23/99 23 Ill Reg 8128	10/19/99
3-or-more-years of-employment	2215-02 11-73	2249-02 11-73	2075-02 11-73	07-01-99	1740-00 10-00	1774-00 10-20	1792-22 10-30	11/19/99	The Board of Trustees of University of Illinois, Program Content and Guidelines for Division of Specialized Care for Children (89 Ill Adm Code 1200)	5/7/99 23 Ill Reg 5486	10/19/99
1st-year-of employment	1567-02 10-73	1901-02 10-93	1901-02 10-93	07-01-99	1740-00 10-00	1774-00 10-20	1792-22 10-30	11/20/99	Department of Insurance, Minimum Standards for Individual and Group Medicare Supplement Insurance (50 Ill Adm Code 2008)	6/4/99 23 Ill Reg 6/31	11/16/99

HOB: Effective July 1, 1997, full-time employees will receive a one-time lump sum payment of \$665. Employees hired before July 1, 1997 will earn the full rate.

(Source: Repealed at 23 Ill. Reg. 13132, effective October 1, 1999.)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 5, 1999 through October 11, 1999 and have been scheduled for review by the Committee at its October 19, 1999 meeting in Chicago or its November 16, 1999 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Start
of First
Notice

JCAR
Meeting

10/19/99

Rules acted upon during the calendar quarter from Issue 43 through issue 52 are listed in the Issues Index by Title number, Part number, and Issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-762-4414 or jdade@ccgate.sos.state.il.us (Internet address).

PROPOSED

17-2520-43
26-100-43
26-125-43
44-500R-43
44-500-43
74-440-43
77-1100-43
77-1110-43
77-1120-43
77-1130-43
77-1140-43
77-1200R-43
89-361-43

ADOPTED

23-1050-43
32-505-43
80-310-43
89-301-43
89-362-43

**PEREMPT-
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80-310-43

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